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Received; read twice and placed on the calendar

AN ACT

To reauthorize and amend the Indian Health Care Improvement Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Indian Health Care Amendments of 1988”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. References to the Indian Health Care Improvement Act.

Sec. 3. Appropriation; availability.

TITLE I—INDIAN HEALTH MANPOWER

- Sec. 101. Health professions recruitment program for Indians.
- Sec. 102. Health professions preparatory scholarship program.
- Sec. 103. Indian Health Service extern programs.
- Sec. 104. Indian health professions scholarship program.
- Sec. 105. Continuing education allowances.
- Sec. 106. Native Hawaiian health professions scholarship program.
- Sec. 107. Community health representatives.
- Sec. 108. Indian Health Service clinical staffing.

TITLE II—HEALTH SERVICES

- Sec. 201. Improvement of Indian health status.
- Sec. 202. Catastrophic health program.
- Sec. 203. Health promotion and disease prevention.
- Sec. 204. Reimbursement of certain expenses.

TITLE III—HEALTH FACILITIES

- Sec. 301. Consultation; closure of facilities; reports.
- Sec. 302. Safe water and sanitary waste disposal facilities.
- Sec. 303. Use of non-Service funds for renovation.
- Sec. 304. Bethel, Alaska, hospital.

TITLE IV—URBAN INDIAN HEALTH SERVICES

- Sec. 401. Revision of program.
- Sec. 402. Urban Indian organization.

TITLE V—ORGANIZATIONAL IMPROVEMENTS

- Sec. 501. Establishment of the Indian Health Service as an agency of the Public Health Service.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Leasing and other contracts.
- Sec. 602. Arizona as a contract health service delivery area.
- Sec. 603. Eligibility of California Indians.
- Sec. 604. California as a contract health service delivery area.
- Sec. 605. Contract health facilities.
- Sec. 606. National Health Service Corps.
- Sec. 607. Health services for ineligible persons.
- Sec. 608. Infant and maternal mortality; fetal alcohol syndrome.
- Sec. 609. Contract health services for the Trenton Service Area.
- Sec. 610. Indian Health Service and Veterans' Administration health facilities and services sharing.
- Sec. 611. Reallocation of base resources.
- Sec. 612. Provision of services in Montana.
- Sec. 613. Tohono O'Odham demonstration project.
- Sec. 614. Pueblo substance abuse treatment project for San Juan Pueblo, New Mexico.
- Sec. 615. Study with respect to nuclear resource development health hazards.
- Sec. 616. Restriction on the use of depo-provera.
- Sec. 617. Limitation on use of funds appropriated to the Indian Health Service.

1 SEC. 2. REFERENCES TO THE INDIAN HEALTH CARE
2 IMPROVEMENT ACT.

3 Except as otherwise specifically provided, whenever in
4 this Act an amendment or repeal is expressed in terms of an
5 amendment to, or a repeal of, a section or other provision,
6 the reference shall be considered to be made to a section or
7 other provision of the Indian Health Care Improvement Act
8 (25 U.S.C. 1601 et seq.).

9 SEC. 3. APPROPRIATION; AVAILABILITY.

10 Any new spending authority (described in subsection
11 (c)(2) (A) or (B) of section 401 of the Congressional Budget
12 Act of 1974) which is provided under this Act shall be effec-
13 tive for any fiscal year only to such extent or in such amounts
14 as are provided in appropriation Acts.

15 **TITLE I—INDIAN HEALTH
16 MANPOWER**

17 SEC. 101. HEALTH PROFESSIONS RECRUITMENT PROGRAM
18 FOR INDIANS.

19 Subsection (c) of section 102 (25 U.S.C. 1612(c)) is
20 amended to read as follows:

21 “(c) There are authorized to be appropriated for the pur-
22 pose of carrying out the provisions of this section—

23 “(1) \$600,000 for fiscal year 1989,

24 “(2) \$650,000 for fiscal year 1990,

25 “(3) \$700,000 for fiscal year 1991, and

26 “(4) \$750,000 for fiscal year 1992.”

1 SEC. 102. HEALTH PROFESSIONS PREPARATORY SCHOLAR-
2 SHIP PROGRAM.

3 (a) DENIAL; AUTHORIZATION.—Section 103 (25
4 U.S.C. 1613) is amended by striking out subsection (d) and
5 inserting in lieu thereof the following:

6 “(d) The Secretary shall not deny scholarship assistance
7 to an eligible applicant under this section solely on the basis
8 of the applicant’s scholastic achievement if such applicant has
9 been admitted to, or maintained good standing at, an accred-
10 ited institution.

11 “(e) There are authorized to be appropriated for the pur-
12 pose of carrying out the provisions of this section—

13 “(1) \$3,000,000 for fiscal year 1989,

14 “(2) \$3,700,000 for fiscal year 1990,

15 “(3) \$4,400,000 for fiscal year 1991, and

16 “(4) \$5,100,000 for fiscal year 1992.”.

17 (b) GRANTEE EXPENSES.—Subsection (c) of section
18 103 is amended by striking out “expenses” and inserting in
19 lieu thereof “expenses of a grantee while attending school
20 full time”.

21 SEC. 103. INDIAN HEALTH SERVICE EXTERN PROGRAMS.

22 Subsection (d) of section 105 (25 U.S.C. 1614) is
23 amended to read as follows:

24 “(d) There are authorized to be appropriated for the
25 purpose of carrying out the provisions of this section—

26 “(1) \$300,000 for fiscal year 1989,

1 “(2) \$350,000 for fiscal year 1990,
2 “(3) \$400,000 for fiscal year 1991, and
3 “(4) \$450,000 for fiscal year 1992.”.

4 **SEC. 104. INDIAN HEALTH PROFESSIONS SCHOLARSHIP PRO-**
5 **GRAM.**

6 (a) **IN GENERAL.**—Section 104 is amended to read as
7 follows:

8 **“SEC. 104. INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.**

9 “(a) **GENERAL AUTHORITY.**—In order to provide
10 health professionals to Indian communities, the Secretary,
11 acting through the Service and in accordance with this sec-
12 tion, shall make scholarship grants to Indians who are en-
13 rolled full time in appropriately accredited schools of medi-
14 cine, osteopathy, podiatry, psychology, dentistry, environ-
15 mental health and engineering, nursing, optometry, public
16 health, and allied health professions. Such scholarships shall
17 be designated Indian Health Scholarships and shall be made
18 in accordance with section 338A of the Public Health Serv-
19 ice Act (42 U.S.C. 254(l)), except as provided in subsection
20 (b) of this section.

21 “(b) **CONDITIONS SPECIFIC TO INDIAN HEALTH PRO-**
22 **FESIONS SCHOLARSHIPS.**—(1) The Secretary, acting
23 through the Service, shall determine who shall receive schol-
24 arships under subsection (a) and shall determine the distribu-
25 tion of such scholarships among such health professions on

1 the basis of the relative needs of Indians for additional serv-
2 ice in such health professions.

3 “(2) An individual shall be eligible for a scholarship
4 under subsection (a) in any year in which such individual is
5 enrolled full time in a health profession school referred to in
6 subsection (a).

7 “(3) The active duty service obligation prescribed under
8 section 338C of the Public Health Service Act (42 U.S.C.
9 254m) shall be met by a recipient of an Indian Health
10 Scholarship by service—

11 “(A) in the Indian Health Service;

12 “(B) in a program conducted under a contract en-
13 tered into under the Indian Self-Determination Act;

14 “(C) in a program assisted under title V of this
15 Act; or

16 “(D) in the private practice of the applicable pro-
17 fession if, as determined by the Secretary, in accord-
18 ance with guidelines promulgated by the Secretary,
19 such practice is situated in a physician or other health
20 professional shortage area and addresses the health
21 care needs of a substantial number of Indians.

22 “(c) DEFINITION.—For the purpose of this section, the
23 term ‘Indian’ has the same meaning given that term by sub-
24 section (c) of section 4 of this Act, including all individuals
25 described in clauses (1) through (4) of that subsection.

1 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated for the purpose of carrying
3 out the provisions of this section—

4 “(1) \$5,100,000 for fiscal year 1989,
5 “(2) \$6,000,000 for fiscal year 1990,
6 “(3) \$7,100,000 for fiscal year 1991, and
7 “(4) \$8,234,000 for fiscal year 1992.”.

8 (b) CONFORMING AMENDMENT.—Section 338I of the
9 Public Health Service Act (42 U.S.C. 254r) is repealed.

10 (c) TRANSITION RULE.—Scholarships provided under
11 section 338I of the Public Health Service Act (42 U.S.C.
12 254r) shall continue under section 104 of the Indian Health
13 Care Improvement Act (added by subsection (a) of this sec-
14 tion), and each such scholarship shall be subject to the same
15 terms and conditions to which such scholarship was subject
16 before the date of enactment of this Act.

17 SEC. 105. CONTINUING EDUCATION ALLOWANCES.

18 Subsection (b) of section 106 (25 U.S.C. 1615(b)) is
19 amended to read as follows:

20 “(b) There are authorized to be appropriated for the
21 purpose of carrying out the provisions of this section—
22 “(1) \$500,000 for fiscal year 1989,
23 “(2) \$526,300 for fiscal year 1990,
24 “(3) \$553,800 for fiscal year 1991, and
25 “(4) \$582,500 for fiscal year 1992.”.

1 SEC. 106. NATIVE HAWAIIAN HEALTH PROFESSIONS SCHOL-
2 ARSHIP PROGRAM.

3 The Public Health Service Act (42 U.S.C. 201 et seq.),
4 as amended by section 104(b) of this Act, is further amended
5 by inserting after section 338H the following new section:
6 **“SEC. 338I. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS.**

7 **“(a) GENERAL AUTHORITY.—**Subject to the availabil-
8 ity of funds appropriated under the authority of subsection
9 (d), the Secretary shall provide scholarship assistance to stu-
10 dents who—

11 **“(1) meet the requirements of section 338A(b),**
12 and

13 **“(2) are Native Hawaiians.**

14 **“(b) TERMS AND CONDITIONS.—**

15 **“(1) The scholarship assistance provided under**
16 **subsection (a) shall be provided under the same terms**
17 **and subject to the same conditions, regulations, and**
18 **rules that apply to scholarship assistance provided**
19 **under section 338A.**

20 **“(2) The Native Hawaiian Health Scholarship**
21 **program shall not be administered by or through the**
22 **Indian Health Service.**

23 **“(c) DEFINITION.—**For purposes of this section, the
24 term ‘Native Hawaiian’ means any individual who is—

25 **“(1) a citizen of the United States, and**

1 “(2) a descendant of the aboriginal people who,
2 prior to 1778, occupied and exercised sovereignty in
3 the area that now constitutes the State of Hawaii.

4 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated \$1,800,000 for fiscal years
6 1989, 1990, 1991, and 1992, for the purpose of funding the
7 scholarship assistance provided under subsection (a).”.

8 **SEC. 107. COMMUNITY HEALTH REPRESENTATIVES.**

9 Title I is amended by adding at the end thereof the
10 following new section:

11 **“SEC. 107. COMMUNITY HEALTH REPRESENTATIVE PROGRAM.**

12 “(a) PROGRAM.—Under the authority of the Act of No-
13 vember 2, 1921 (25 U.S.C. 13), popularly known as the
14 Snyder Act, the Secretary shall maintain a Community
15 Health Representative Program under which the Service—

16 “(1) provides for the training of Indians as health
17 paraprofessionals, and

18 “(2) uses such paraprofessionals in the provision
19 of health care, health promotion, and disease preven-
20 tion services to Indian communities.

21 “(b) TRAINING.—The Secretary, acting through the
22 Community Health Representative Program of the Service,
23 shall—

24 “(1) provide a high standard of training for para-
25 professionals to Community Health Representatives to

1 ensure that the Community Health Representatives
2 provide quality health care, health promotion, and dis-
3 ease prevention services to the Indian communities
4 served by such Program,

5 “(2) in order to provide such training, develop a
6 curriculum that—

7 “(A) combines education in the theory of
8 health care with supervised practical experience
9 in the provision of health care, and

10 “(B) provides instruction and practical expe-
11 rience in health promotion and disease prevention
12 activities,

13 “(3) develop a system which identifies the needs
14 of Community Health Representatives for continuing
15 education in health care, health promotion, and disease
16 prevention and develop programs that meet the needs
17 for such continuing education,

18 “(4) develop and maintain a system that provides
19 close supervision of Community Health Representa-
20 tives,

21 “(5) develop a system under which the work of
22 Community Health Representatives is reviewed and
23 evaluated, and

24 “(6) promote traditional health care practices of
25 the Indian tribes served consistent with the Service

1 standards for the provision of health care, health pro-
2 motion, and disease prevention.”.

3 **SEC. 108. INDIAN HEALTH SERVICE CLINICAL STAFFING.**

4 Title I is amended by adding at the end thereof the
5 following new sections:

6 **“SEC. 108. INDIAN HEALTH SERVICE LOAN REPAYMENT
7 PROGRAM.**

8 **“(a) ESTABLISHMENT.—**

9 “(1) The Secretary, acting through the Service,
10 shall establish a program to be known as the Indian
11 Health Service Loan Repayment Program (hereinafter
12 referred to as the ‘Loan Repayment Program’) in order
13 to assure an adequate supply of trained physicians,
14 dentists, nurses, nurse practitioners, physician assist-
15 ants, and other health professionals necessary to main-
16 tain accreditation of, and provide health care services
17 to Indians through, Indian health programs.

18 **“(2) For the purposes of this section—**

19 **“(A) the term ‘Indian health program’ means**
20 **any health program or facility funded, in whole or**
21 **part, by the Service for the benefit of Indians and**
22 **administered—**

23 **“(i) directly by the Service;**

1 “(ii) by any Indian tribe or tribal or
2 Indian organization pursuant to a contract
3 under—

4 “(I) the Indian Self-Determination
5 Act, or

6 “(II) section 23 of the Act of April
7 30, 1908 (25 U.S.C. 47), popularly
8 known as the ‘Buy-Indian’ Act; or

9 “(iii) by an urban Indian organization
10 pursuant to title V of this Act; and

11 “(B) the term ‘State’ has the same meaning
12 given such term in section 331(i)(4) of the Public
13 Health Service Act.

14 “(b) ELIGIBILITY.—To be eligible to participate in the
15 Loan Repayment Program, an individual must—

16 “(1)(A) be enrolled—

17 “(i) as a full-time student in the final year of
18 a course of study or program in an accredited in-
19 stitution, as determined by the Secretary, within
20 any State; or

21 “(ii) in an approved graduate training pro-
22 gram in medicine, osteopathy, dentistry, or other
23 health profession; or

24 “(B) have—

1 “(i) a degree in medicine, osteopathy, den-
2 tistry, or other health profession;

3 “(ii) completed an approved graduate train-
4 ing program in medicine, osteopathy, dentistry, or
5 other health profession in a State, except that the
6 Secretary may waive the completion requirement
7 of this clause for good cause; and

8 “(iii) a license to practice medicine, osteopa-
9 thy, dentistry, or other health profession in a
10 State;

11 “(2)(A) be eligible for, or hold, an appointment as
12 a commissioned officer in the Regular or Reserve
13 Corps of the Public Health Service;

14 “(B) be eligible for selection for civilian service in
15 the Regular or Reserve Corps of the Public Health
16 Service;

17 “(C) meet the professional standards for civil serv-
18 ice employment in the Indian Health Service; or

19 “(D) be employed in an Indian health program
20 without a service obligation;

21 “(3) submit an application to participate in the
22 Loan Repayment Program; and

23 “(4) sign and submit to the Secretary, at the time
24 of submission of such application, a written contract
25 (described in subsection (f)) to accept repayment of edu-

1 cational loans and to serve (in accordance with this
2 section) for the applicable period of obligated service in
3 an Indian health program.

4 **“(c) APPLICATION, CONTRACT, AND INFORMATION**
5 **REQUIREMENTS.—**

6 “(1) In disseminating application forms and con-
7 tract forms to individuals desiring to participate in the
8 Loan Repayment Program, the Secretary shall include
9 with such forms a fair summary of the rights and liabil-
10 ties of an individual whose application is approved
11 (and whose contract is accepted) by the Secretary, in-
12 cluding in the summary a clear explanation of the dam-
13 ages to which the United States is entitled under sub-
14 section (l) in the case of the individual's breach of the
15 contract.

16 “(2) The application form, contract form, and all
17 other information furnished by the Secretary under this
18 section shall be written in a manner calculated to be
19 understood by the average individual applying to par-
20 ticipate in the Loan Repayment Program.

21 “(3) The Secretary shall make such application
22 forms, contract forms, and other information available
23 to individuals desiring to participate in the Loan Re-
24 payment Program on a date sufficiently early to ensure

1 that such individuals have adequate time to carefully
2 review and evaluate such forms and information.

3 **“(d) PRIORITY AND PREFERENCE.—**

4 “(1) The Secretary, acting through the Service
5 and in accordance with subsection (k), shall annually—

6 “(A) identify the positions in each Indian
7 Health program for which there is a need or a va-
8 cancy, and

9 “(B) rank those positions in order of priority.

10 “(2) Consistent with the priority determined under
11 paragraph (1), the Secretary, in determining which ap-
12 plications under the Loan Repayment Program to ap-
13 prove (and which contracts to accept), shall give priori-
14 ty to applications made by—

15 “(A) Indians; and

16 “(B) individuals recruited through the efforts
17 of Indian tribes or tribal or Indian organizations.

18 **“(e) APPROVAL REQUIRED FOR PARTICIPATION.—**

19 “(1) An individual becomes a participant in the
20 Loan Repayment Program only on the Secretary’s ap-
21 proval of the individual’s application submitted under
22 subsection (b)(3) and the Secretary’s acceptance of the
23 contract submitted by the individual under subsection
24 (b)(4).

1 “(2) The Secretary shall provide written notice to
2 an individual promptly on—

3 “(A) the Secretary’s approving, under para-
4 graph (1), of the individual’s participation in the
5 Loan Repayment Program; or

6 “(B) the Secretary’s disapproving an individ-
7 ual’s participation in such Program.

8 “(f) WRITTEN CONTRACT.—The written contract re-
9 ferred to in this section between the Secretary and an indi-
10 vidual shall contain—

11 “(1) an agreement under which—

12 “(A) subject to paragraph (3), the Secretary
13 agrees—

14 “(i) to pay loans on behalf of the indi-
15 vidual in accordance with the provisions of
16 this section, and

17 “(ii) to accept (subject to the availability
18 of appropriated funds for carrying out this
19 section) the individual into the Service or
20 place the individual with a tribe or Indian
21 organization as provided in subparagraph
22 (B)(iii), and

23 “(B) subject to paragraph (3), the individual
24 agrees—

1 “(i) to accept loan payments on behalf
2 of the individual;

3 “(ii) in the case of an individual de-
4 scribed in subsection (b)(1)—

5 “(I) to maintain enrollment in a
6 course of study or training described in
7 subsection (b)(1)(A) until the individual
8 completes the course of study or train-
9 ing, and

10 “(II) while enrolled in such course
11 of study or training, to maintain an ac-
12 ceptable level of academic standing (as
13 determined under regulations of the
14 Secretary by the educational institution
15 offering such course of study or train-
16 ing);

17 “(iii) to serve for a time period (herein-
18 after in this section referred to as the ‘period
19 of obligated service’) equal to 2 years or
20 such longer period as the individual may
21 agree to serve in the full-time clinical prac-
22 tice of such individual’s profession in an
23 Indian health program to which the individ-
24 ual may be assigned by the Secretary;

1 “(2) a provision permitting the Secretary to
2 extend for such longer additional periods, as the indi-
3 vidual may agree to, the period of obligated service
4 agreed to by the individual under paragraph (1)(B)(iii);

5 “(3) a provision that any financial obligation of
6 the United States arising out of a contract entered into
7 under this section and any obligation of the individual
8 which is conditioned thereon is contingent upon funds
9 being appropriated for loan repayments under this
10 section;

11 “(4) a statement of the damages to which the
12 United States is entitled under subsection (l) for the in-
13 dividual’s breach of the contract; and

14 “(5) such other statements of the rights and liabil-
15 ities of the Secretary and of the individual, not incon-
16 sistent with this section.

17 “(g) PAYMENTS.—

18 “(1) A loan repayment provided for an individual
19 under a written contract under the Loan Repayment
20 Program shall consist of payment, in accordance with
21 paragraph (2), on behalf of the individual of the princi-
22 pal, interest, and related expenses on government and
23 commercial loans received by the individual for—

24 “(A) tuition expenses;

1 “(B) all other reasonable educational ex-
2 penses, including fees, books, and laboratory ex-
3 penses, incurred by the individual; and

4 “(C) reasonable living expenses as deter-
5 mined by the Secretary.

6 “(2)(A) Except as provided in subparagraph (B)
7 and paragraph (3), for each year of obligated service
8 for which an individual contracts to serve under sub-
9 section (f), the Secretary may pay up to \$25,000 on
10 behalf of the individual for loans described in paragraph
11 (1).

12 “(B) Any arrangement made by the Secretary for
13 the making of loan repayments in accordance with this
14 subsection shall provide that any repayments for a year
15 of obligated service shall be made no later than the end
16 of the fiscal year in which the individual completes
17 such year of service.

18 “(3) In addition to payments made under para-
19 graph (2), in any case in which payments on behalf of
20 an individual under the Loan Repayment Program
21 result in an increase in Federal, State, or local income
22 tax liability for such individual, the Secretary may, on
23 the request of such individual, make payments to such
24 individual in a reasonable amount, as determined by

1 the Secretary, to reimburse such individual for all or
2 part of the increased tax liability of the individual.

3 “(4) The Secretary may enter into an agreement
4 with the holder of any loan for which payments are
5 made under the Loan Repayment Program to establish
6 a schedule for the making of such payments.

7 “(h) EMPLOYMENT CEILING.—Notwithstanding any
8 other provision of law, individuals who have entered into
9 written contracts with the Secretary under this section, while
10 undergoing academic training, shall not be counted against
11 any employment ceiling affecting the Department of Health
12 and Human Services.

13 “(i) RECRUITMENT.—The Secretary shall conduct re-
14 cruiting programs for the Loan Repayment Program and
15 other Service manpower programs at educational institutions
16 training health professionals or specialists identified in sub-
17 section (a).

18 “(j) DETAIL OF PERSONNEL.—Section 214 of the
19 Public Health Service Act (42 U.S.C. 215) shall not apply to
20 individuals during their period of obligated service under the
21 Loan Repayment Program.

22 “(k) EQUAL TREATMENT OF STAFFING NEEDS OF
23 INDIAN HEALTH PROGRAMS.—The Secretary shall ensure
24 that the staffing needs of Indian health programs adminis-
25 tered by any Indian tribe or tribal or Indian organization re-

1 ceive consideration on an equal basis with programs that are
2 administered directly by the Service.

3 **“(l) BREACH OF CONTRACT.—**

4 “(1) An individual who has entered into a written
5 contract with the Secretary under this section and
6 who—

7 “(A) is enrolled in the final year of a course
8 of study and who—

9 “(i) fails to maintain an acceptable level
10 of academic standing in the educational insti-
11 tution in which he is enrolled (such level de-
12 termined by the educational institution under
13 regulations of the Secretary);

14 “(ii) voluntarily terminates such enroll-
15 ment; or

16 “(iii) is dismissed from such educational
17 institution before completion of such course
18 of study; or

19 “(B) is enrolled in a graduate training pro-
20 gram, fails to complete such training program,
21 and does not receive a waiver from the Secretary
22 under subsection (b)(1)(B)(ii),

23 shall be liable, in lieu of any service obligation arising
24 under such contract, to the United States for the

1 amount which has been paid on such individual's behalf
2 under the contract.

3 “(2) If, for any reason not specified in paragraph
4 (1), an individual breaches his written contract under
5 this section by failing either to begin, or complete, such
6 individual's period of obligated service in accordance
7 with subsection (f), the United States shall be entitled
8 to recover from such individual an amount to be deter-
9 mined in accordance with the following formula:

10 $A = 3 \phi (t - s/t)$

11 in which—

12 “(A) ‘A’ is the amount the United States is
13 entitled to recover;

14 “(B) ‘ ϕ ’ is the sum of the amounts paid
15 under this section to, or on behalf of, the individ-
16 ual and the interest on such amounts which would
17 be payable if, at the time the amounts were paid,
18 they were loans bearing interest at the maximum
19 legal prevailing rate, as determined by the Treas-
20 urer of the United States;

21 “(C) ‘t’ is the total number of months in the
22 individual's period of obligated service in accord-
23 ance with subsection (f); and

1 “(D) ‘s’ is the number of months of such
2 period served by such individual in accordance
3 with this section.

4 Amounts not paid within such period shall be subject
5 to collection through deductions in Medicare payments
6 pursuant to section 1892 of the Social Security Act.

7 “(3)(A) Any amount of damages which the United
8 States is entitled to recover under this subsection shall
9 be paid to the United States within the 1-year period
10 beginning on the date of the breach or such longer
11 period beginning on such date as shall be specified by
12 the Secretary.

13 “(B) If damages described in subparagraph (A)
14 are delinquent for 3 months, the Secretary shall, for
15 the purpose of recovering such damages—

16 “(i) utilize collection agencies contracted
17 with by the Administrator of the General Services
18 Administration; or

19 “(ii) enter into contracts for the recovery of
20 such damages with collection agencies selected by
21 the Secretary.

22 “(C) Each contract for recovering damages pursuant
23 to this subsection shall provide that the contractor
24 will, not less than once each 6 months, submit to the
25 Secretary a status report on the success of the contrac-

1 tor in collecting such damages. Section 3718 of title
2 31, United States Code, shall apply to any such con-
3 tract to the extent not inconsistent with this sub-
4 section.

5 “(m) TERMINATION OF OBLIGATION.—

6 “(1) Any obligation of an individual under the
7 Loan Repayment Program for service or payment of
8 damages shall be canceled upon the death of the
9 individual.

10 “(2) The Secretary shall by regulation provide for
11 the partial or total waiver or suspension of any obliga-
12 tion of service or payment by an individual under the
13 Loan Repayment Program whenever compliance by
14 the individual is impossible or would involve extreme
15 hardship to the individual and if enforcement of such
16 obligation with respect to any individual would be
17 unconscionable.

18 “(3) The Secretary may waive, in whole or in
19 part, the rights of the United States to recover
20 amounts under this section in any case of extreme
21 hardship or other good cause shown, as determined by
22 the Secretary.

23 “(4) Any obligation of an individual under the
24 Loan Repayment Program for payment of damages
25 may be released by a discharge in bankruptcy under

1 title 11 of the United States Code only if such dis-
2 charge is granted after the expiration of the 5-year
3 period beginning on the first date that payment of such
4 damages is required, and only if the bankruptcy court
5 finds that nondischarge of the obligation would be
6 unconscionable.

7 “(n) REPORTS.—

8 “(1) By not later than the first of March of each
9 year, the Secretary shall, beginning with fiscal year
10 1990, submit to the Congress an annual report for the
11 preceding fiscal year setting out—

12 “(A) the number of such applications filed
13 with respect to each type of health profession;

14 “(B) the health professional positions main-
15 tained by the Service or by tribal or Indian orga-
16 nizations for which recruitment or retention is
17 difficult;

18 “(C) the number of contracts described in
19 subsection (f) that are entered into with respect to
20 each health profession; and

21 “(D) the amount of loan payments made in
22 total and by health profession.

23 “(2) Not later than the first of July of each year,
24 beginning in 1989, the Secretary shall submit to Con-
25 gress a report on—

1 “(A) the number of providers of health care
2 that will be needed by Indian health programs by
3 location and profession, during the three fiscal
4 years beginning after the date the report is filed;
5 and

6 “(B) the measures the Secretary plans to
7 take to fill the health professional positions main-
8 tained by the Service or by tribes or tribal or
9 Indian organizations for which recruitment or re-
10 tention is difficult.

11 “(o) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated such sums as may be nec-
13 essary for each fiscal year to carry out the provisions of this
14 section.

15 “SEC. 109. TRAVEL EXPENSES FOR RECRUITMENT.

16 “(a) REIMBURSEMENT.—The Secretary may reimburse
17 health professionals seeking positions in the Service, includ-
18 ing individuals considering entering into a contract under sec-
19 tion 108, and their spouses, for actual and reasonable ex-
20 penses incurred in traveling to and from their places of resi-
21 dence to an area in which they may be assigned for the pur-
22 pose of evaluating such area with respect to such assignment.

23 “(b) AUTHORIZATION OF APPROPRIATION.—There are
24 authorized to be appropriated \$100,000 for each fiscal year
25 for the purpose of carrying out the provisions of this section.

1 "SEC. 110. TRIBAL RECRUITMENT AND RETENTION PROGRAM.

2 "(a) GRANTS.—The Secretary, acting through the
3 Service, shall fund, on a competitive basis, projects to enable
4 Indian tribes and tribal and Indian organizations to recruit,
5 place, and retain health professionals to meet the staffing
6 needs of Indian health programs (as defined in section
7 108(a)(2)).

8 "(b) SELECTION AND EVALUATION.—

9 "(1) Any Indian tribe or tribal or Indian organiza-
10 tion may submit an application for funding of a project
11 pursuant to this section.

12 "(2) Indian tribes and tribal and Indian organiza-
13 tions under the authority of the Indian Self-Determina-
14 tion Act shall be given an equal opportunity with pro-
15 grams that are administered directly by the Service to
16 compete for, and receive, grants under subsection (a)
17 for such projects.

18 "(c) AUTHORIZATION OF APPROPRIATIONS.—There
19 are hereby authorized to be appropriated \$1,000,000 for each
20 of the fiscal years 1989, 1990, and 1991 for the purpose of
21 carrying out the provisions of this section.

22 "SEC. 111. ADVANCED TRAINING AND RESEARCH.

23 "(a) IN GENERAL.—The Secretary, acting through the
24 Service, shall establish a program to enable health profes-
25 sionals who have worked in an Indian health program (as
26 defined in section 108(a)(2)) for a substantial period of time to

1 pursue advanced training or research in areas of study for
2 which the Secretary determines a need exists.

3 “(b) OBLIGATED SERVICE.—An individual who partici-
4 pates in a program under subsection (a), where the education-
5 al costs are borne by the Service, shall incur an obligation to
6 serve in an Indian health program for a period of obligated
7 service equal to 3 times the period of time during which the
8 individual participates in such program. In the event that the
9 individual fails to complete such obligated service, the indi-
10 vidual shall be liable to the United States for the period of
11 service remaining. The Secretary shall develop standards for
12 appropriate recoupment for such remaining service.

13 “(c) EQUAL OPPORTUNITY TO PARTICIPATE IN PRO-
14 GRAM.—Health professionals from Indian tribes and tribal
15 and Indian organizations under the authority of the Indian
16 Self-Determination Act shall be given an equal opportunity
17 to participate in the program under subsection (a).

18 “(d) REGULATIONS.—The Secretary shall prescribe
19 such regulations as may be necessary to carry out the provi-
20 sions of this section.”.

21 **TITLE II—HEALTH SERVICES**

22 **SEC. 201. IMPROVEMENT OF INDIAN HEALTH STATUS.**

23 (a) IN GENERAL.—Section 201 (25 U.S.C. 1621) is
24 amended to read as follows:

1 "SEC. 201. IMPROVEMENT OF INDIAN HEALTH STATUS.

2 "(a) GENERAL AUTHORITY.—The Secretary is author-
3 ized to expend funds which are appropriated pursuant to sub-
4 section (h), through the Service, for the purposes of—

5 "(1) raising the health status of Indians to zero
6 deficiency;

7 "(2) eliminating backlogs in the provision of
8 health care services to Indians;

9 "(3) meeting the health needs of Indians in an ef-
10 ficient and equitable manner; and

11 "(4) augmenting the ability of the Service to meet
12 the following health service responsibilities with re-
13 spect to those Indian tribes with the highest levels of
14 health resources deficiency:

15 "(A) Clinical care (direct and indirect) includ-
16 ing clinical eye and vision care.

17 "(B) Preventive health.

18 "(C) Dental care (direct and indirect).

19 "(D) Mental health, including community
20 mental health services, inpatient mental health
21 services, dormitory mental health services, thera-
22 peutic and residential treatment centers, and
23 training of traditional Indian practitioners.

24 "(E) Emergency medical services.

25 "(F) Treatment and control of, and rehabili-
26 tative care related to, alcoholism and substance

1 abuse (including fetal alcohol syndrome) among
2 Indians.

3 "“(G) Accident prevention programs.

4 "“(H) Home health care.

5 "“(I) Community health representatives.

6 "“(J) Maintenance and repair.

7 “(b) TREATMENT OF APPROPRIATED FUNDS.—

8 “(1) Any funds appropriated pursuant to subsec-
9 tion (h) shall not be used to offset or limit any appro-
10 priations made to the Service under the Act of Novem-
11 ber 2, 1921 (25 U.S.C. 13), popularly known as the
12 Snyder Act, or any other provision of law.

13 “(2) Funds which are appropriated pursuant to
14 subsection (h) may be allocated to, or used for the ben-
15 efit of, any Indian tribe which has a health resources
16 deficiency level at level I or II only if a sufficient
17 amount of funds have been appropriated pursuant to
18 subsection (h) to raise all Indian tribes to health re-
19 sources deficiency level II.

20 “(3) Funds appropriated pursuant to subsection (h)
21 may be allocated on a service unit basis but such allo-
22 cation shall be made in a manner which ensures that
23 the requirement of paragraph (2) is met. The funds al-
24 located to each service unit under this paragraph shall
25 be used by the service unit (in accordance with para-

1 graph (2)) to raise the deficiency level of each tribe
2 served by such service unit.

3 "(c) **HEALTH RESOURCES DEFICIENCY LEVELS.**—For
4 purposes of this section—

5 " "(1) The health resources deficiency levels of an
6 Indian tribe are as follows:

7 " "(A) Level I—0 to 20 percent health re-
8 sources deficiency.

9 " "(B) Level II—21 to 40 percent health re-
10 sources deficiency.

11 " "(C) Level III—41 to 60 percent health re-
12 sources deficiency.

13 " "(D) Level IV—61 to 80 percent health re-
14 sources deficiency.

15 " "(E) Level V—81 to 100 percent health re-
16 sources deficiency.

17 " "(2) Under regulations, the Secretary shall estab-
18 lish procedures which allow any Indian tribe to petition
19 the Secretary for a review of any determination of the
20 health resources deficiency level of such tribe.

21 " "(d) **TRIBAL PROGRAMS.**—

22 " "(1) Programs administered by any Indian tribe or
23 tribal organization under the authority of the Indian
24 Self-Determination Act shall be eligible for funds ap-
25 propriated pursuant to subsection (h) on an equal basis

1 with programs that are administered directly by the
2 Service.

3 "(2) If any funds allocated to a tribe or service
4 unit under the authority of this section are used for a
5 contract entered into under the Indian Self-Determina-
6 tion Act, a reasonable portion of such funds may be
7 used for health planning, training, technical assistance,
8 and other administrative support functions.

9 "(e) REPORT TO THE CONGRESS.—By no later than
10 the date that is 60 days after the date of enactment of the
11 Indian Health Care Amendments of 1988, the Secretary
12 shall submit to the Congress the current health services pri-
13 ority system report of the Service for each Indian tribe or
14 service unit, including newly recognized or acknowledged
15 tribes. Such report shall set out—

16 "(1) the methodology then in use by the Service
17 for determining tribal health resources deficiencies,
18 as well as the most recent application of that
19 methodology;

20 "(2) the level of health resources deficiency for
21 each Indian tribe served by the Service;

22 "(3) the amount of funds necessary to raise all
23 Indian tribes served by the Service below health re-
24 sources deficiency level II to health resources defi-
25 ciency level II;

1 “(4) the amount of funds necessary to raise all
2 tribes served by the Service below health resources de-
3 ficiency level I to health resources deficiency level I;

4 “(5) the amount of funds necessary to raise all
5 tribes served by the Service to zero health resources
6 deficiency; and

7 “(6) an estimate of—

8 “(A) the amount of health service funds ap-
9 propriated under the authority of this Act, or any
10 other Act, including the amount of any funds
11 transferred to the Service, for the preceding fiscal
12 year which is allocated to each service unit;

13 “(B) the number of Indians eligible for health
14 services in each service unit; and

15 “(C) the number of Indians using the Service
16 resources made available to each service unit.

17 “(f) MATTERS TO BE INCLUDED IN BUDGET SUBMIS-
18 SIONS.—

19 “(1) The President shall include with the budget
20 submitted under section 1105 of title 31, United States
21 Code, for each fiscal year a separate statement which
22 specifies the amount of funds requested to carry out
23 the provisions of this section for such fiscal year.

24 “(2) Funds appropriated under authority of this
25 section for any fiscal year shall be included in the base

1 budget of the Service for the purpose of determining
2 appropriations under this section in subsequent fiscal
3 years.

4 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
5 tion is intended to diminish the primary responsibility of the
6 Service to eliminate existing backlogs in unmet health care
7 needs, nor are the provisions of this section intended to dis-
8 courage the Service from undertaking additional efforts to
9 achieve parity among Indian tribes.

10 “(h) AUTHORIZATIONS OF APPROPRIATIONS.—There
11 are authorized to be appropriated for the purpose of carrying
12 out the provisions of this section—

13 “(1) \$19,000,000 for fiscal year 1990,
14 “(2) \$19,000,000 for fiscal year 1991, and
15 “(3) \$20,000,000 for fiscal year 1992.

16 Any funds appropriated under the authority of this subsection
17 shall be designated as the ‘Indian Health Care Improvement
18 Fund’.”.

19 (b) DEFINITIONS.—Section 4 (25 U.S.C. 1603) is
20 amended by striking out subsections (i), (j), and (k), and by
21 inserting in lieu thereof the following new subsections:

22 “(i) ‘Area office’ means an administrative entity, includ-
23 ing a program office, within the Indian Health Service
24 through which services and funds are provided to the service
25 units within a defined geographic area.

1 “(j) ‘Service unit’ means—

2 “(1) an administrative entity within the Indian
3 Health Service, or

4 “(2) a tribe or tribal organization operating health
5 care programs or facilities with funds from the Service
6 under the Indian Self-Determination Act,

7 through which services are provided, directly or by contract,
8 to the eligible Indian population within a defined geographic
9 area.”.

10 **SEC. 202. CATASTROPHIC HEALTH PROGRAM.**

11 Title II is amended by adding at the end thereof the
12 following new section:

13 **“SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.**

14 “(a) **ESTABLISHMENT; ADMINISTRATION.—**

15 “(1) There is hereby established an Indian Cata-
16 strophic Health Emergency Fund (hereafter in this sec-
17 tion referred to as the ‘Fund’) consisting of—

18 “(A) the amounts deposited under subsection
19 (d), and

20 “(B) the amounts appropriated under subsec-
21 tion (e).

22 “(2) The Fund shall be administered by the Sec-
23 retary, acting through the central office of the Service,
24 solely for the purpose of meeting the extraordinary
25 medical costs associated with the treatment of victims

1 of disasters or catastrophic illnesses who are within the
2 responsibility of the Service.

3 “(3) The Fund shall not be allocated, apportioned,
4 or delegated on a service unit, area office, or any other
5 basis.

6 “(4) No part of the Fund or its administration
7 shall be subject to contract or grant under any law, in-
8 cluding the Indian Self-Determination Act.

9 “(b) REGULATIONS PROMULGATED BY SECRETARY.—
10 The Secretary shall, through the promulgation of regulations
11 consistent with the provisions of this section—

12 “(1) establish a definition of disasters and cata-
13 strophic illnesses for which the cost of treatment pro-
14 vided under contract would qualify for payment from
15 the Fund;

16 “(2) provide that a service unit shall not be eligi-
17 ble for reimbursement for the cost of treatment from
18 the Fund until its cost of treating any victim of such
19 catastrophic illness or disaster has reached a certain
20 threshold cost which the Secretary shall establish at
21 not less than \$10,000 or not more than \$20,000;

22 “(3) establish a procedure for the reimbursement
23 of the costs incurred by—

24 “(A) service units or facilities of the Service,
25 or

5 “(4) establish a procedure for payment from the
6 Fund in cases in which the exigencies of the medical
7 circumstances warrant treatment prior to the authori-
8 zation of such treatment by the Service; and

9 “(5) establish a procedure that will ensure that no
10 payment shall be made from the Fund to any provider
11 of treatment to the extent that such provider is eligible
12 to receive payment for the treatment from any other
13 Federal, State, local, or private source of reimburse-
14 ment.

15 "(c) FUNDS NOT TO OFFSET OR LIMIT CERTAIN AP-
16 PROPRIATIONS.—Funds appropriated under subsection (e)
17 shall not be used to offset or limit appropriations made to the
18 Service under authority of the Act of November 2, 1921 (25
19 U.S.C. 13), popularly known as the Snyder Act, or any other
20 law.

21 "(d) DEPOSITS INTO FUND.—There shall be deposited
22 into the Fund all reimbursements to which the Service is
23 entitled from any Federal, State, local, or private source (in-
24 cluding third party insurance) by reason of treatment ren-

1 dered to any victim of a disaster or catastrophic illness the
2 cost of which was paid from the Fund.

3 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated for the purpose of carrying
5 out the provisions of this section—

6 “(1) \$12,000,000 for fiscal year 1989, and

7 “(2) for each of the fiscal years 1990, 1991, and
8 1992, such sums as may be necessary to restore the
9 Fund to a level of \$12,000,000 for such fiscal year.

10 Funds appropriated under the authority of this subsection
11 shall remain available until expended.”.

12 SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION.

13 (a) DEFINITIONS.—Section 4 (25 U.S.C. 1603) is
14 amended by adding at the end thereof the following new sub-
15 sections:

16 “(k) ‘Health promotion’ includes—

17 “(1) cessation of tobacco smoking,

18 “(2) reduction in the misuse of alcohol and sub-
19 stances,

20 “(3) improvement of nutrition,

21 “(4) improvement in physical fitness,

22 “(5) family planning, and

23 “(6) control of stress.

24 “(l) ‘Disease prevention’ includes—

25 “(1) immunizations,

1 “(2) control of high blood pressure,
2 “(3) control of sexually transmittable diseases,
3 “(4) prevention and control of diabetes,
4 “(5) pregnancy and infant care (including preven-
5 tion of fetal alcohol syndrome),
6 “(6) control of toxic agents,
7 “(7) occupational safety and health,
8 “(8) accident prevention,
9 “(9) fluoridation of water, and
10 “(10) control of infectious agents.”.

11 (b) **HEALTH PROMOTION AND DISEASE PREVENTION**
12 **SERVICES.**—Title II (25 U.S.C. 1621, et seq.) is further
13 amended by adding at the end thereof the following
14 new sections:

15 **“SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION**
16 **SERVICES.**

17 “(a) **IN GENERAL.**—The Secretary, acting through the
18 Service, shall provide health promotion and disease preven-
19 tion services to Indians.

20 “(b) **ITEMS TO BE INCLUDED IN HEALTH SERVICES**
21 **PRIORITY SYSTEM REPORT.**—The Secretary shall include in
22 each report which is required under section 201(f) an identifi-
23 cation of—

24 “(1) the health promotion and disease prevention
25 activities which would best meet such needs,

1 “(2) the internal capacity of the Service to meet
2 such needs, and

3 “(3) the resources which would be required to
4 enable the Service to undertake the health promotion
5 and disease prevention activities necessary to meet
6 such needs.

7 “SEC. 204. DIABETES PREVENTION, TREATMENT, AND CON-
8 TROL.

9 “(a) DETERMINATION; REPORT.—

10 “(1) The Secretary, in consultation with the
11 tribes, shall determine—

12 “(A) by tribe and by service unit of the Serv-
13 ice, the incidence of, and the types of complica-
14 tions resulting from, diabetes among Indians; and

15 “(B) based on subparagraph (A), the meas-
16 ures (including patient education) each Service
17 unit should take to reduce the incidence of, and
18 prevent, treat, and control the complications re-
19 sulting from, diabetes among tribes within that
20 service unit.

21 “(2) Within 18 months after the date of enact-
22 ment of the Indian Health Care Amendments of 1988,
23 the Secretary shall prepare and transmit to the Presi-
24 dent and the Congress a report describing the determi-
25 nations made and measures taken under paragraph (1)

1 and making recommendations for additional funding to
2 prevent, treat, and control diabetes among Indians.

3 “(b) DIABETES SCREENING.—The Secretary shall
4 screen each Indian who receives services from the Service for
5 diabetes and for conditions which indicate a high risk that the
6 individual will become diabetic. Such screening may be done
7 by a tribe or tribal organization operating health care pro-
8 grams or facilities with funds from the Service under the
9 Indian Self-Determination Act.

10 “(c) MODEL DIABETES PROJECTS.—

11 “(1) The Secretary shall continue to maintain
12 during fiscal years 1988 through 1991 each of the fol-
13 lowing model diabetes projects which are in existence
14 on the date of enactment of the Indian Health Care
15 Amendments of 1987:

16 “(A) Claremore Indian Hospital in Okla-
17 homa;

18 “(B) Fort Totten Health Center in North
19 Dakota;

20 “(C) Sacaton Indian Hospital in Arizona;

21 “(D) Winnebago Indian Hospital in Ne-
22 braska;

23 “(E) Albuquerque Indian Hospital in New
24 Mexico;

1 “(F) Perry, Princeton, and Old Town Health
2 Centers in Maine; and

3 “(G) Bellingham Health Center in Washing-
4 ton.

5 “(2) The Secretary shall establish in fiscal year
6 1989, and maintain during fiscal years 1989 through
7 1991, a model diabetes project in each of the following
8 locations:

9 “(A) Ft. Berthold Reservation;

10 “(B) the Navajo Reservation;

11 “(C) the Papago Reservation;

12 “(D) the Zuni Reservation; and

13 “(E) the States of Alaska, California, Minne-
14 sota, Montana, Oregon, and Utah.

15 “(d) AREA OFFICE DIABETES CONTROL.—The Secre-
16 tary shall—

17 “(1) employ in each area office of the Service at
18 least one diabetes control officer who shall coordinate
19 and manage on a full-time basis activities within that
20 area office for the prevention, treatment, and control of
21 diabetes; and

22 “(2) establish in each area office of the Service a
23 registry of patients with diabetes to track the incidence
24 of diabetes and the complications from diabetes in that
25 area.

1 "(e) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated such sums as may be necessary
3 to carry out the provisions of this section. Funds appropriated
4 under subsection (c) in any fiscal year shall be in addition to
5 base resources appropriated to the Service for that year.”.

6 **SEC. 205. NATIVE HAWAIIAN HEALTH PROMOTION AND**
7 **DISEASE PREVENTION.**

8 "(a) ESTABLISHMENT OF PROGRAM.—

9 "(1) The Secretary shall, acting through the
10 Public Health Service, establish in the State of
11 Hawaii, as a demonstration project, a Native Hawaiian
12 Program for Health Promotion and Disease Prevention
13 for the purpose of exploring ways to meet the unique
14 health care needs of Native Hawaiians.

15 "(2) The demonstration program that is to be es-
16 tablished under paragraph (1) shall—

17 "(A) provide necessary preventive-oriented
18 health services, including health education and
19 mental health care,

20 "(B) develop innovative training and re-
21 search projects,

22 "(C) establish cooperative relationships with
23 the leadership of the Native Hawaiian community,

1 “(D) ensure that a continuous effort is made
2 to establish programs which can be of direct bene-
3 fit to other Native American people, and

4 “(E) assure a comprehensive effort to reduce
5 the incidence of diabetes among Native Hawai-
6 ians.

7 “(3) The Secretary is authorized to enter into
8 contracts with Native Hawaiian organizations for the
9 purpose of assisting the Secretary in meeting the objec-
10 tives of the demonstration program that is to be estab-
11 lished under paragraph (1).

12 **“(b) DETERMINATION OF SITUATION.—**

13 “(1) In fulfillment of the objective set forth in sub-
14 section (a)(2)(E), the Secretary shall enter into a con-
15 tract with a Native Hawaiian organization to conduct
16 a study to determine—

17 “(A) the incidence of diabetes among Native
18 Hawaiians;

19 “(B) activities which should be undertaken—

20 “(i) to reduce the incidence of diabetes
21 among Native Hawaiians,

22 “(ii) to provide Native Hawaiians with
23 guidance in the prevention, treatment, and
24 control of diabetes,

1 “(iii) to provide early diagnosis of diabetes among Native Hawaiians, and

2 “(iv) to ensure that proper continuing health care is provided to Native Hawaiians 3
4 who are diagnosed as diabetic.

5 “(2) The Secretary shall enter into a contract 6
7 with a Native Hawaiian organization for the purpose of 8
8 preparing an inventory of all health care programs 9
9 (public and private) within the State of Hawaii that are 10
10 available for the treatment, prevention, or control of 11
11 diabetes among Native Hawaiians.

12 “(3) By no later than the date that is two years 13
13 after the date of enactment of this section, the Native 14
14 Hawaiian organization with whom the Secretary has 15
15 entered into a contract, shall prepare and transmit to 16
16 the Secretary a report describing the determinations 17
17 made under paragraph (1), containing the inventory 18
18 prepared under paragraph (2), and describing the re- 19
19 search activities conducted under this subsection. The 20
20 Secretary shall submit the report to the Congress and 21
21 the President.

22 “(c) IMPLEMENTATION OF PROGRAM.—

23 “(1) By no later than the date that is three years 24
24 after the date of enactment of this section, the Secre- 25
25 tary shall enter into a contract with a Native Hawaiian

1 organization for the purpose of implementing a pro-
2 gram designed—

3 “(A) to establish a diabetes control program;

4 “(B) to screen those Native Hawaiian indi-
5 viduals that have been identified as having a high
6 risk of becoming diabetic;

7 “(C) to effectively treat—

8 “(i) individuals diagnosed as diabetics in
9 order to reduce further complications from
10 diabetes,

11 “(ii) individuals who have a high risk of
12 becoming diabetic in order to reduce the inci-
13 dence of diabetes, and

14 “(iii) short-term and long-term compli-
15 cations of diabetes;

16 “(D) to conduct for Federal, State, and other
17 Native Hawaiian health care providers (including
18 Native Hawaiian community health outreach
19 workers), training programs concerning current
20 methods of prevention, diagnosis, and treatment of
21 diabetes and related complications among Native
22 Hawaiians;

23 “(E) to determine the appropriate delivery to
24 Native Hawaiians of health care services relating
25 to diabetes;

1 “(F) to develop and present health education
2 information to Native Hawaiian communities and
3 schools concerning the prevention, treatment, and
4 control of diabetes; and

5 “(G) to ensure that proper continuing health
6 care is provided to Native Hawaiians who are di-
7 agnosed as being diabetic.

8 “(2) The Secretary shall enter into a contract
9 with a Native Hawaiian organization for the purpose
10 of—

11 “(A) promoting coordination and cooperation
12 between all health care providers in the delivery
13 of diabetes related services to Native Hawaiians;
14 and

15 “(B) encouraging and funding joint projects
16 between Federal programs, State health care fa-
17 cilities, community health centers, and Native Ha-
18 waiian communities for the prevention and treat-
19 ment of diabetes.

20 “(3)(A) The Secretary shall enter into a contract
21 with a Native Hawaiian organization for the purpose of
22 establishing a model diabetes program to serve Native
23 Hawaiians in the State of Hawaii.

24 “(B) The Secretary shall enter into a contract
25 with a Native Hawaiian organization for the purpose of

1 developing and implementing an outreach program to
2 ensure that the achievements and benefits derived from
3 the activities of the model diabetes program established
4 under subparagraph (A) are applied in Native Hawaiian
5 communities to assure the diagnosis, prevention,
6 and treatment of diabetes among Native Hawaiians.

7 “(4) The Secretary shall submit to the Congress
8 an annual report outlining the activities, achievements,
9 needs, and goals of the Native Hawaiian diabetes care
10 program established under this paragraph.

11 “(d) DATA REGARDING DIABETES AMONG NATIVE
12 HAWAIIANS.—The Secretary shall enter into a contract with
13 a Native Hawaiian organization, for the purpose of develop-
14 ing a standardized system to collect, analyze, and report data
15 regarding diabetes and related complications among Native
16 Hawaiians. Such system shall be designed to facilitate dis-
17 semination of the best available information on diabetes to
18 Native Hawaiian communities and health care professionals.

19 “(e) RESEARCH.—The Secretary shall enter into a con-
20 tract with a Native Hawaiian organization for the purpose
21 of—

22 “(1) conducting research concerning the causes,
23 diagnosis, treatment, and prevention of diabetes and re-
24 lated complications among Native Hawaiians, and

1 “(2) coordinating such research with all other rel-
2 evant agencies and units of the government of the
3 State of Hawaii and the Department of Health and
4 Human Services which conduct research relating to di-
5 abetes and related complications.

6 “(f) REPORT TO CONGRESS.—The Secretary shall
7 submit to the Congress an annual report on the status and
8 accomplishments of the progress established under this sec-
9 tion during each of the fiscal years 1990, 1991, and 1992.

10 “(g) ADMINISTRATION OF CONTRACTS.—

11 “(1) The Secretary shall include in any contract
12 which the Secretary enters into with any Native Ha-
13 waiian organization under this subsection such condi-
14 tions as the Secretary considers necessary to ensure
15 that the objectives of such contract are achieved.

16 “(2) The Secretary shall develop procedures to
17 evaluate compliance with, and performance of, con-
18 tracts entered into by Native Hawaiian organizations
19 under this subsection.

20 “(3) The Secretary shall conduct an annual onsite
21 evaluation of each Native Hawaiian organization which
22 has entered into a contract under this subsection for
23 purposes of determining the compliance of such organi-
24 zation with, and evaluating the performance of such or-
25 ganization under, such contract.

1 “(4) If, as a result of the evaluations conducted
2 under paragraph (3) the Secretary determines that a
3 Native Hawaiian organization has not complied with or
4 satisfactorily performed a contract entered into under
5 this subsection, the Secretary shall, prior to renewing
6 such contract, attempt to resolve the areas of noncom-
7 pliance or unsatisfactory performance and modify such
8 contract to prevent future occurrences of such noncom-
9 pliance or unsatisfactory performance. If the Secretary
10 determines that such noncompliance or unsatisfactory
11 performance cannot be resolved and prevented in the
12 future, the Secretary shall not renew such contract
13 with such organization and is authorized to enter into a
14 contract under this subsection with another Native Ha-
15 waiian organization that serves the same population of
16 Native Hawaiians which is served by the Native Ha-
17 waiian organization whose contract is not renewed by
18 reason of this subparagraph.

19 “(5) In determining whether to renew a contract
20 entered into with a Native Hawaiian organization
21 under this subsection, the Secretary shall—

22 “(A) review the records of the Native Ha-
23 waiian organization, and

24 “(B) shall consider the results of the onsite
25 evaluations conducted under paragraph (3).

1 “(6) All contracts entered into by the Secretary
2 under this subsection shall be in accordance with all
3 Federal contracting laws and regulations except that,
4 in the discretion of the Secretary, such contracts may
5 be negotiated without advertising and need not con-
6 form to the provision of the Act of August 24, 1935
7 (40 U.S.C. 270a et seq.).

8 “(7) Payments made under any contract entered
9 into under this subsection may be made in advance, by
10 means of reimbursement, or in installments and shall
11 be made on such conditions as the Secretary deems
12 necessary to carry out the purposes of this subsection.

13 “(8) Notwithstanding any other provision of law,
14 the Secretary may, at the request or consent of a
15 Native Hawaiian organization, revise or amend any
16 contract entered into by the Secretary with such orga-
17 nization under this subsection as necessary to carry out
18 the purposes of this subsection.

19 “(9)(A) For each fiscal year during which a
20 Native Hawaiian organization receives or expends
21 funds pursuant to a contract entered into under this
22 subsection, such organization shall submit to the Secre-
23 tary a quarterly report on—

24 “(i) activities conducted by the organization
25 under the contract,

1 “(ii) the amounts and purposes for which
2 Federal funds were expended, and

3 “(iii) such other information as the Secretary
4 may request.

5 “(B) The reports and records of any Native Ha-
6 waiian organization which concern any contract en-
7 tered into under this subsection shall be subject to
8 audit by the Secretary and the Comptroller General of
9 the United States.

10 “(10) The Secretary shall allow as a cost of any
11 contract entered into under this subsection the cost of
12 an annual private audit conducted by a certified public
13 accountant.

14 “(11) The authority of the Secretary to enter into
15 contracts under this subsection shall be to the extent,
16 and in amounts, provided for in appropriation Acts.

17 “(h) NATIVE HAWAIIAN.—For purposes of this
18 subsection—

19 “(1) the term ‘Native Hawaiian’ means any indi-
20 vidual who—

21 “(A) is a citizen of the United States,

22 “(B) is a resident of the State of Hawaii, and

23 “(C) is a descendant of the aboriginal people
24 who, prior to 1778, occupied and exercised sover-

1 eignty in the area that now constitutes the State
2 of Hawaii; and

3 “(2) the term ‘Native Hawaiian organization’

4 means any organization—

5 “(A) which serves and represents the inter-
6 ests of Native Hawaiians,

7 “(B) which is recognized by the Office of
8 Hawaiian Affairs of the State of Hawaii and E
9 Ola Mau for the purpose of planning, conducting,
10 or administering programs (or portion of pro-
11 grams) authorized under this Act for Native
12 Hawaiians, and

13 “(C) in which Native Hawaiian health pro-
14 fessionals significantly participate in the planning,
15 management, monitoring, and evaluation of health
16 services.

17 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated \$750,000 for each of the
19 fiscal years 1989, 1990, 1991, and 1992, for the purpose of
20 carrying out the provisions of this subsection.

21 “(j) PROGRAM NOT TO BE ADMINISTERED BY OR
22 THROUGH INDIAN HEALTH SERVICE.—The programs and
23 services established by this section shall not be administered
24 by or through the Indian Health Service nor shall any funds

1 appropriated to the Indian Health Service be used to supple-
2 ment funding of such programs and services.”.

3 **SEC. 204. REIMBURSEMENT OF CERTAIN EXPENSES.**

4 Title II is amended by adding at the end thereof the
5 following new sections:

6 **SEC. 206. REIMBURSEMENT FROM CERTAIN THIRD PARTIES**
7 **OF COSTS OF HEALTH SERVICES.**

8 **“(a) UNITED STATES RIGHT TO RECOVER.—**The
9 United States shall have the right to recover the reasonable
10 expenses incurred by the Secretary in providing health serv-
11 ices, through the Service, to any individual to the same
12 extent that such individual, or any non-governmental provid-
13 er of such services, would be eligible to receive reimburse-
14 ment or indemnification for such expenses if—

15 **“(1) such services had been provided by a nongov-**
16 **ernmental provider, and**

17 **“(2) such individual had been required to pay such**
18 **expenses and did pay such expenses.**

19 **“(b) LIMITATION ON RECOVERY AGAINST A STATE.—**
20 Subsection (a) shall provide a right of recovery against any
21 State, or any political subdivision of a State, only if the
22 injury, illness, or disability for which health services were
23 provided is covered under—

24 **“(1) workers’ compensation laws, or**

1 “(2) a no-fault automobile accident insurance plan
2 or program.

3 “(c) FEDERAL PREEMPTION.—No law of any State, or
4 of any political subdivision of a State, and no provision of any
5 contract entered into or renewed after the date of enactment
6 of the Indian Health Care Amendments of 1988, shall pre-
7 vent or hinder the right of recovery of the United States
8 under subsection (a).

9 “(d) RIGHT OF PERSON TO DAMAGES.—No action
10 taken by the United States to enforce the right of recovery
11 provided under subsection (a) shall affect the right of any
12 person to any damages other than damages for the cost of
13 health services provided by the Secretary through the
14 Service.

15 “(e) ENFORCEMENT OF RIGHT OF RECOVERY.—The
16 United States may enforce the right of recovery provided
17 under subsection (a) by—

18 “(1) intervening or joining in any civil action or
19 proceeding brought—

20 “(A) by the individual for whom health serv-
21 ices were provided by the Secretary, or

22 “(B) by any representative or heirs of such
23 individual, or

24 “(2) instituting a separate civil action, after pro-
25 viding to such individual, or to the representative or

1 heirs of such individual, notice of the intention of the
2 United States to institute a separate civil action.

3 **“SEC. 207. CREDITING OF REIMBURSEMENTS.**

4 “(a) CREDIT TO PROVIDER.—Except as provided in
5 section 202(d), title IV, and section 713 of this Act, all reim-
6 bursements received or recovered, under authority of this Act
7 or any other provision of law, by reason of the provision of
8 health services by the Service or by a tribe or tribal organiza-
9 tion under a contract pursuant to the Indian Self-Determina-
10 tion Act shall be retained by the Service or that tribe or
11 tribal organization and shall be available for the facilities, and
12 to carry out the programs, of the Service or that tribe or
13 tribal organization to provide health care services to Indians.

14 “(b) CREDIT NOT MADE AGAINST FUNDS OBLIGATED
15 FOR A PROVIDER.—The Service may not offset or limit the
16 amount of funds obligated to any service unit or any entity
17 under contract with the Service because of the receipt of re-
18 imbursements under subsection (a).

19 **“SEC. 208. HEALTH SERVICES RESEARCH.**

20 “Of the amounts appropriated for the Service in any
21 fiscal year, other than amounts made available for the Indian
22 Health Care Improvement Fund, not less than \$200,000
23 shall be available only for research to further the perform-
24 ance of the health service responsibilities of the Service.
25 Indian tribes and tribal organizations contracting with the

1 Service under the authority of the Indian Self-Determination
2 Act shall be given an equal opportunity to compete for, and
3 receive, research funds under this subsection.”.

4 **TITLE III—HEALTH FACILITIES**

5 **SEC. 301. CONSULTATION; CLOSURE OF FACILITIES; REPORTS.**

6 Section 301 (25 U.S.C. 1631) is amended to read as
7 follows:

8 **“SEC. 301. CONSULTATION; CLOSURE OF FACILITIES;**
9 **REPORTS.**

10 “(a) **CONSULTATION.**—Prior to the expenditure of, or
11 the making of any firm commitment to expend, any funds
12 appropriated for the planning, design, construction, or major
13 renovation of facilities pursuant to the Act of November 2,
14 1921 (25 U.S.C. 13), popularly known as the Snyder Act,
15 the Secretary, acting through the Service, shall—

16 “(1) consult with any Indian tribe that would be
17 significantly affected by such expenditure for the pur-
18 pose of determining and, whenever practicable, honor-
19 ing tribal preferences concerning size, location, type,
20 and other characteristics of any facility on which such
21 expenditure is to be made, and

22 “(2) ensure, whenever practicable, that such facil-
23 ity meets the standards of the Joint Commission on
24 Accreditation of Hospitals by not later than one year

1 after the date on which the construction or renovation
2 of such facility is completed.

3 **“(b) CLOSURE OF FACILITIES.—**

4 “(1) Notwithstanding any provision of law other
5 than this subsection, no Service hospital or other out-
6 patient health care facility of the Service, or any por-
7 tion of such a hospital or facility, may be closed if the
8 Secretary has not submitted to the Congress at least
9 one year prior to the date such hospital or facility (or
10 portion thereof) is proposed to be closed an evaluation
11 of the impact of such proposal which specifies, in addi-
12 tion to other considerations—

13 “(A) the accessibility of alternative health
14 care resources for the population served by such
15 hospital or facility;

16 “(B) the cost effectiveness of such closure;

17 “(C) the quality of health care to be provided
18 to the population served by such hospital or facili-
19 ty after such closure;

20 “(D) the availability of contract health care
21 funds to maintain existing levels of service; and

22 “(E) the views of the Indian tribes served by
23 such hospital or facility concerning such closure.

24 “(2) Paragraph (1) shall not apply to any tempo-
25 rary closure of a facility or of any portion of a facility

1 if such closure is necessary for medical, environmental,
2 or safety reasons.

3 “(c) MATTERS TO BE INCLUDED IN BUDGET SUBMIS-
4 SIONS.—The President shall include with the budget submit-
5 ted under section 1105 of title 31, United States Code, for
6 each of the fiscal years 1990, 1991, and 1992, program justi-
7 fication documents for the construction of ten inpatient and
8 ten outpatient Indian health facilities which—

9 “(1) comply with applicable construction stand-
10 ards, and

11 “(2) have been approved by the Secretary.

12 “(d) ANNUAL REPORT.—

13 “(1) The Secretary shall submit to the Congress
14 an annual report which sets forth—

15 “(A) the current health facility priority
16 system of the Service,

17 “(B) the planning, design, construction, and
18 renovation needs for the ten top-priority inpatient
19 care facilities and the ten top-priority ambulatory
20 care facilities (together with required staff quar-
21 ters),

22 “(C) the justification for such order of
23 priority,

24 “(D) the projected cost of such projects, and

1 “(E) the methodology adopted by the Service
2 in establishing priorities under its health facility
3 priority system.

4 “(2) The first report required under paragraph (1)
5 shall be submitted by no later than the date that is 180
6 days after the date of enactment of the Indian Health
7 Care Amendments of 1988 and, beginning in 1990,
8 each subsequent annual report shall be submitted by
9 the date that is 60 days after the date on which the
10 President submits the budget to the Congress under
11 section 1105 of title 31, United States Code.

12 “(3) In preparing each report required under
13 paragraph (1) (other than the initial report), the Secre-
14 tary shall—

15 “(A) consult with Indian tribes and tribal or-
16 ganizations including those tribes or tribal organi-
17 zations operating health programs or facilities
18 under any contract entered into with the Service
19 under the Indian Self-Determination Act, and

20 “(B) review the needs of such tribes and
21 tribal organizations for inpatient and outpatient
22 facilities, including their needs for renovation and
23 expansion of existing facilities.

24 “(4) For purposes of this subsection, the Secretary
25 shall, in evaluating the needs of facilities operated

1 under any contract entered into with the Service under
2 the Indian Self-Determination Act, use the same crite-
3 ria that the Secretary uses in evaluating the needs of
4 facilities operated directly by the Service.

5 “(e) INTEGRATION OF FACILITIES INTO HEALTH FA-
6 CILITY PRIORITY SYSTEM.—The Secretary shall ensure that
7 the planning, design, construction, and renovation needs of
8 Service and non-Service facilities which are the subject of a
9 contract for health services entered into with the Service
10 under the Indian Self-Determination Act are fully and equita-
11 bly integrated into the development of the health facility pri-
12 ority system.

13 “(f) SNYDER ACT FUNDS SUBJECT TO INDIAN SELF-
14 DETERMINATION ACT.—All funds appropriated under the
15 Act of November 2, 1921 (25 U.S.C. 13), for the planning,
16 design, construction, or renovation of health facilities for the
17 benefit of an Indian tribe or tribes shall be subject to the
18 provisions of sections 103 and 104(b) of the Indian Self-
19 Determination Act.”.

20 SEC. 302. SAFE WATER AND SANITARY WASTE DISPOSAL
21 FACILITIES.

22 Section 302 (25 U.S.C. 1632) is amended to read
23 as follows:

1 "SEC. 302. SAFE WATER AND SANITARY WASTE DISPOSAL
2 FACILITIES.

3 "(a) FINDINGS AND DECLARATIONS.—The Congress
4 hereby finds and declares that—

5 " "(1) the provision of safe water supply systems
6 and sanitary sewage and solid waste disposal systems
7 is primarily a health consideration and function;

8 " "(2) Indian people suffer an inordinately high inci-
9 dence of disease, injury, and illness directly attributable
10 to the absence or inadequacy of such systems;

11 " "(3) the long-term cost to the United States of
12 treating and curing such disease, injury, and illness is
13 substantially greater than the short-term cost of pro-
14 viding such systems and other preventive health
15 measures;

16 " "(4) many Indian homes and communities still
17 lack safe water supply systems and sanitary sewage
18 and solid waste disposal systems; and

19 " "(5) it is in the interest of the United States, and
20 it is the policy of the United States, that all Indian
21 communities and Indian homes, new and existing, be
22 provided with safe and adequate water supply systems
23 and sanitary sewage waste disposal systems as soon as
24 possible.

25 "(b) RESPONSIBILITY AND AUTHORITY OF SERVICE.—

1 “(1) In furtherance of the findings and declara-
2 tions made in subsection (a), Congress reaffirms the
3 primary responsibility and authority of the Service to
4 provide the necessary sanitation facilities and services
5 as provided in section 7 of the Act of August 5, 1954
6 (42 U.S.C. 2004a).

7 “(2) The Secretary, acting through the Service, is
8 authorized to provide under section 7 of the Act of
9 August 5, 1954 (42 U.S.C. 2004a)—

10 “(A) financial and technical assistance to
11 Indian tribes and communities in the establish-
12 ment, training, and equipping of utility organiza-
13 tions to operate and maintain Indian sanita-
14 tion facilities;

15 “(B) ongoing technical assistance and train-
16 ing in the management of utility organizations
17 which operate and maintain sanitation facilities;
18 and

19 “(C) operation and maintenance assistance
20 for, and emergency repairs to, tribal sanitation fa-
21 cilities when necessary to avoid a health hazard
22 or to protect the Federal investment in sanitation
23 facilities.

24 “(c) 10-YEAR PLAN.—Beginning in fiscal year 1990,
25 the Secretary, acting through the Service, shall develop and

1 begin implementation of a 10-year plan to provide safe water
2 supply and sanitary sewage and solid waste disposal facilities
3 to existing Indian homes and communities and to new and
4 renovated Indian homes.

5 “(d) CAPABILITY TO OPERATE AND MAINTAIN SANI-
6 TATION FACILITY.—The financial and technical capability of
7 an Indian tribe or community to safely operate and maintain
8 a sanitation facility shall not be a prerequisite to the provi-
9 sion or construction of sanitation facilities by the Secretary.

10 “(e) USER FEES AND FUNDS.—The provisions of this
11 section shall not diminish the primary responsibility of the
12 Indian tribe or community to establish, collect, and utilize
13 reasonable user fees, or otherwise set aside funding, for the
14 purpose of operating and maintaining sanitation facilities.

15 “(f) TRIBAL PROGRAMS.—Programs administered by
16 Indian tribes or tribal organizations under the authority of
17 the Indian Self-Determination Act shall be eligible for—

18 “(1) any funds appropriated pursuant to subsec-
19 tion (h), and

20 “(2) any funds appropriated for the purpose of
21 providing water supply or sewage disposal services,
22 on an equal basis with programs that are administered direct-
23 ly by the Service.

24 “(g) REPORT.—

1 “(1) The Secretary shall submit to the Congress
2 an annual report which sets forth—

3 “(A) the current Indian sanitation facility
4 priority system of the Service;

5 “(B) the methodology for determining sanita-
6 tion deficiencies;

7 “(C) the level of sanitation deficiency for
8 each sanitation facilities project of each Indian
9 tribe or community;

10 “(D) the amount of funds necessary to raise
11 all Indian tribes and communities to a level I
12 sanitation deficiency; and

13 “(E) the amount of funds necessary to raise
14 all Indian tribes and communities to zero sanita-
15 tion deficiency.

16 “(2) The first report required under paragraph (1)
17 shall be submitted by no later than the date that is 180
18 days after the date of enactment of the Indian Health
19 Care Amendments of 1988 and, beginning in 1990,
20 each subsequent annual report shall be submitted by
21 the date that is 60 days after the date on which the
22 President submits the budget to the Congress under
23 section 1105 of title 31, United States Code.

24 “(3) In preparing each report required under
25 paragraph (1) (other than the initial report), the Secre-

1 tary shall consult with Indian tribes and tribal organi-
2 zations (including those tribes or tribal organizations
3 operating health care programs or facilities under any
4 contract entered into with the Service under the Indian
5 Self-Determination Act) to determine the sanitation
6 needs of each tribe.

7 “(4) The methodology used by the Secretary in
8 determining sanitation deficiencies for purposes of para-
9 graph (1) shall be applied uniformly to all Indian tribes
10 and communities.

11 “(5) For purposes of this subsection, the sanita-
12 tion deficiency levels for an Indian tribe or community
13 are as follows:

14 “(A) Level I is an Indian tribe or community
15 with a sanitation system—

16 “(i) which complies with all applicable
17 water supply and pollution control laws, and

18 “(ii) in which the deficiencies relate to
19 routine replacement, repair, or maintenance
20 needs.

21 “(B) Level II is an Indian tribe or
22 community with a sanitation system—

23 “(i) which complies with all applicable
24 water supply and pollution control laws, and

1 “(ii) in which the deficiencies relate to
2 capital improvements that are necessary to
3 improve the facilities in order to meet the
4 needs of such tribe or community for domes-
5 tic sanitation facilities.

6 “(C) Level III is an Indian tribe or commu-
7 nity with a sanitation system which—

8 “(i) has an inadequate or partial water
9 supply and a sewage disposal facility that
10 does not comply with applicable water
11 supply and pollution control laws, or

12 “(ii) has no solid waste disposal facility.

13 “(D) Level IV is an Indian tribe or commu-
14 nity with a sanitation system which lacks either a
15 safe water supply system or a sewage disposal
16 system.

17 “(E) Level V is an Indian tribe or communi-
18 ty that lacks a safe water supply and a sewage
19 disposal system.

20 “(6) For purposes of this subsection, any Indian
21 tribe or community that lacks the operation and main-
22 tenance capability to enable its sanitation system to
23 meet pollution control laws may not be treated as
24 having a level I or II sanitation deficiency.

25 “(h) AUTHORIZATIONS OF APPROPRIATIONS.—

1 “(1) There are authorized to be appropriated for
2 each of the fiscal years 1990, 1991, and 1992,
3 \$3,000,000 for the purpose of providing funds neces-
4 sary to implement the responsibilities of the Service
5 described in subsection (b)(2).

6 “(2) In addition to the amount authorized under
7 paragraph (1), there are authorized to be appropriated
8 for each of the fiscal years 1990, 1991, and 1992,
9 \$850,000 for the sanitation service account of the
10 Service which shall be used to carry out the responsi-
11 bilities of the Service described in subsection (b)(2).”.

12 **SEC. 303. USE OF NON-SERVICE FUNDS FOR RENOVATION.**

13 (a) **RENOVATION AND MODERNIZATION.**—Section 305
14 (25 U.S.C. 1634) is amended to read as follows:

15 **“SEC. 305. EXPENDITURE OF NON-SERVICE FUNDS FOR**
16 **RENOVATION.**

17 “(a) **ACCEPTANCE BY SECRETARY.**—Notwithstanding
18 any other provision of law, the Secretary is authorized to
19 accept any major renovation or modernization by any Indian
20 tribe of any Service facility, or of any other Indian health
21 facility operated pursuant to a contract entered into under
22 the Indian Self-Determination Act, including—

23 “(1) any plans or designs for such renovation or
24 modernization, and

1 “(2) any renovation or modernization for which
2 funds appropriated under any Federal law were
3 lawfully expended,
4 but only if the requirements of subsection (b) are met.

5 “(b) REQUIREMENTS.—The requirements of this sub-
6 section are met with respect to any renovation or moderniza-
7 tion if the renovation or modernization—

8 “(1) does not require or obligate the Secretary to
9 provide any additional employees or equipment,

10 “(2) is approved by the appropriate area director
11 of the Service, and

12 “(3) is administered by the Indian tribe in accord-
13 ance with the rules and regulations prescribed by the
14 Secretary with respect to construction or renovation of
15 Service facilities.

16 “(c) CERTAIN RENOVATIONS AND MODERNIZATIONS
17 NOT AUTHORIZED.—A renovation or modernization shall
18 not be authorized by this section if such renovation or mod-
19 ernization would require the diversion of funds appropriated
20 to the Service from any project which has a higher priority
21 under the health facility priority system of the Service.

22 “(d) RECOVERY OF CERTAIN AMOUNTS IF FACILITY
23 CEASES TO BE USED AS A SERVICE FACILITY.—If any
24 Service facility which has been renovated or modernized by
25 an Indian tribe with its own funds under this section ceases

1 to be used as a Service facility during the 20-year period
2 beginning on the date such renovation or modernization is
3 completed, such Indian tribe shall be entitled to recover from
4 the United States an amount which bears the same ratio to
5 the value of such facility at the time of such cessation as the
6 value of such renovation or modernization (less the total
7 amount of any funds provided specifically for such facility
8 under any Federal program that were expended for such ren-
9 ovation or modernization) bore to the value of such facility at
10 the time of the completion of such renovation or moderniza-
11 tion.”.

12 (b) REPEAL.—The paragraph relating to administrative
13 provisions of the Health Services Administration under the
14 heading “Department of Health and Human Services” in
15 title II of the matter contained in section 101(c) of Public
16 Law 98-473 (98 Stat. 1864) is amended by striking out the
17 sixth proviso.

18 SEC. 304. BETHEL, ALASKA, HOSPITAL.

19 Title III is amended by adding at the end thereof the
20 following new section:

21 “SEC. 306. BETHEL, ALASKA, HOSPITAL.

22 (a) FINAL ADMINISTRATIVE RULING.—If a final ad-
23 ministrative ruling by the Department of the Interior holds
24 that the Bethel Native Corporation is entitled to conveyance
25 under the Alaska Native Claims Settlement Act of the title to

1 the real property described in subsection (d)(1), such ruling
2 shall not be subject to judicial review.

3 “(b) EXCHANGE.—The Secretary is authorized to enter
4 into an agreement with Bethel Native Corporation for an ex-
5 change of the real property described in subsection (d)(1)
6 for—

7 “(1) the lands described in subsection (d)(2), or
8 “(2) any other Federal property which Bethel
9 Native Corporation would have been able to select
10 under the Alaska Native Claims Settlement Act.

11 “(c) PURCHASE.—If an agreement for the exchange of
12 land is not entered into under subsection (b) by the date that
13 is 90 days after the date of the ruling described in subsection
14 (a), the Secretary shall purchase the lands described in sub-
15 section (d)(1) at fair market value.

16 “(d) LAND DESCRIPTION.—(1) The real property re-
17 ferred to in subsection (a) is United States Survey Numbered
18 4000, other than the lands described in paragraph (2).

19 “(2) The lands referred to in subsection (b)(1) are the
20 lands identified as tracts A and B in the determination AA-
21 18959 of the Bureau of Land Management issued on Septem-
22 ber 30, 1983, pursuant to the Alaska Native Claims Settle-
23 ment Act.”.

1 **TITLE IV—URBAN INDIAN**
2 **HEALTH SERVICES**

3 **SEC. 401. REVISION OF PROGRAM.**

4 Title V (25 U.S.C. 1651 et seq.) is amended to read as
5 follows:

6 **“TITLE V—HEALTH SERVICES**
7 **FOR URBAN INDIANS**

8 **“SEC. 501. PURPOSE.**

9 “The purpose of this title is to establish programs in
10 urban centers to make health services more accessible to
11 urban Indians.

12 **“SEC. 502. CONTRACTS WITH URBAN INDIAN ORGANIZATIONS.**

13 “Under authority of the Act of November 2, 1921 (25
14 U.S.C. 13), popularly known as the Snyder Act, the Secre-
15 tary, through the Service, shall enter into contracts with
16 urban Indian organizations to assist such organizations in the
17 establishment and administration, within the urban centers in
18 which such organizations are situated, of programs which
19 meet the requirements set forth in this title. The Secretary,
20 through the Service, shall include such conditions as the Sec-
21 retary considers necessary to effect the purpose of this title in
22 any contract which the Secretary enters into with any urban
23 Indian organization pursuant to this title.

1 "SEC. 503. CONTRACTS FOR THE PROVISION OF HEALTH CARE
2 AND REFERRAL SERVICES.

3 "(a) PROVISION OF HEALTH CARE AND REFERRAL
4 SERVICES.—Under authority of the Act of November 2,
5 1921 (25 U.S.C. 13), popularly known as the Snyder Act,
6 the Secretary, through the Service, shall enter into contracts
7 with urban Indian organizations for the provision of health
8 care and referral services for urban Indians residing in the
9 urban centers in which such organizations are situated. Any
10 such contract shall include requirements that the urban
11 Indian organization successfully undertake to—

12 "(1) estimate the population of urban Indians re-
13 siding in the urban center in which such organization is
14 situated who are or could be recipients of health care
15 or referral services;

16 "(2) estimate the current health status of urban
17 Indians residing in such urban center;

18 "(3) estimate the current health care needs of
19 urban Indians residing in such urban center;

20 "(4) identify all public and private health services
21 resources within such urban center which are or may
22 be available to urban Indians;

23 "(5) determine the use of public and private
24 health services resources by the urban Indians residing
25 in such urban center;

1 “(6) assist such health services resources in pro-
2 viding services to urban Indians;

3 “(7) assist urban Indians in becoming familiar
4 with and utilizing such health services resources;

5 “(8) provide basic health education, including
6 health promotion and disease prevention education, to
7 urban Indians;

8 “(9) establish and implement training programs to
9 accomplish the referral and education tasks set forth in
10 paragraphs (6) through (8) of this subsection;

11 “(10) identify gaps between unmet health needs of
12 urban Indians and the resources available to meet such
13 needs;

14 “(11) make recommendations to the Secretary and
15 Federal, State, local, and other resource agencies on
16 methods of improving health service programs to meet
17 the needs of urban Indians; and

18 “(12) where necessary, provide, or enter into con-
19 tracts for the provision of, health care services for
20 urban Indians.

21 **“(b) CRITERIA FOR SELECTING ORGANIZATIONS
22 WITH WHICH TO ENTER INTO CONTRACTS.—**The Secre-
23 tary, through the Service, shall by regulation prescribe the
24 criteria for selecting urban Indian organizations to enter into

1 contracts under this section. Such criteria shall, among other
2 factors, include—

3 “(1) the extent of unmet health care needs of
4 urban Indians in the urban center involved;

5 “(2) the size of the urban Indian population in the
6 urban center involved;

7 “(3) the accessibility to, and utilization of, health
8 care services (other than services provided under this
9 title) by urban Indians in the urban center involved;

10 “(4) the extent, if any, to which the activities set
11 forth in subsection (a) would duplicate—

12 “(A) any previous or current public or pri-
13 vate health services project in an urban center
14 that was or is funded in a manner other than pur-
15 suant to this title; or

16 “(B) any project funded under this title;

17 “(5) the capability of an urban Indian organization
18 to perform the activities set forth in subsection (a) and
19 to enter into a contract with the Secretary under this
20 section;

21 “(6) the satisfactory performance and successful
22 completion by an urban Indian organization of other
23 contracts with the Secretary under this title;

1 “(7) the appropriateness and likely effectiveness of
2 conducting the activities set forth in subsection (a) in
3 an urban center; and

4 “(8) the extent of existing or likely future partici-
5 pation in the activities set forth in subsection (a) by ap-
6 propriate health and health-related Federal, State,
7 local, and other agencies.

8 **“SEC. 504. CONTRACTS FOR THE DETERMINATION OF UNMET
9 HEALTH CARE NEEDS.**

10 “(a) **DETERMINATION OF UNMET HEALTH CARE
11 NEEDS.**—Under authority of the Act of November 2, 1921
12 (25 U.S.C. 13), popularly known as the Snyder Act, the Sec-
13 retary, through the Service, may enter into contracts with
14 urban Indian organizations situated in urban centers for
15 which contracts have not been entered into under section
16 503. The purpose of a contract under this section shall be the
17 determination of the matters described in subsection (b)(1) in
18 order to assist the Secretary in assessing the health status
19 and health care needs of urban Indians in the urban center
20 involved and determining whether the Secretary should enter
21 into a contract under section 503 with the urban Indian orga-
22 nization with which the Secretary has entered into a contract
23 under this section.

1 "(b) REQUIREMENTS.—Any contract entered into by
2 the Secretary under this section shall include requirements
3 that—

4 "(1) the urban Indian organization successfully
5 undertake to—

6 "(A) document the health care status and
7 unmet health care needs of urban Indians in the
8 urban center involved; and

9 "(B) with respect to urban Indians in the
10 urban center involved, determine the matters de-
11 scribed in clauses (2), (3), (4), and (8) of section
12 503(b); and

13 "(2) the urban Indian organization complete per-
14 formance of the contract within one year after the date
15 on which the Secretary and such organization enter
16 into such contract.

17 "(c) CONTRACTS NOT RENEWABLE.—The Secretary
18 may not renew any contract entered into under this section.

19 "SEC. 505. EVALUATIONS; CONTRACT RENEWALS.

20 "(a) PROCEDURES.—The Secretary, through the Serv-
21 ice, shall develop procedures to evaluate compliance with,
22 and performance of contracts entered into by urban Indian
23 organizations under this title. Such procedures shall include
24 provisions for carrying out the requirements of this section.

1 "(b) ANNUAL EVALUATION.—The Secretary, through
2 the Service, shall conduct an annual onsite evaluation of each
3 urban Indian organization which has entered into a contract
4 under section 503 for purposes of determining the compliance
5 of such organization with, and evaluating the performance of
6 such organization under, such contract.

7 "(c) UNSATISFACTORY PERFORMANCE.—If, as a result
8 of the evaluations conducted under this section, the Secretary
9 determines that an urban Indian organization has not com-
10 plied with or satisfactorily performed a contract under section
11 503, the Secretary shall, prior to renewing such contract,
12 attempt to resolve with such organization the areas of non-
13 compliance or unsatisfactory performance and modify such
14 contract to prevent future occurrences of such noncompliance
15 or unsatisfactory performance. If the Secretary determines
16 that such noncompliance or unsatisfactory performance
17 cannot be resolved and prevented in the future, the Secretary
18 shall not renew such contract with such organization and is
19 authorized to enter into a contract under section 503 with
20 another urban Indian organization which is situated in the
21 same urban center as the urban Indian organization whose
22 contract is not renewed under this section.

23 "(d) CONTRACT RENEWAL DETERMINATION.—In de-
24 termining whether to renew a contract with an urban Indian
25 organization under section 503 which has completed perform-

1 ance of a contract under section 504, the Secretary shall
2 review the records of the urban Indian organization, the re-
3 ports submitted under section 507, and, in the case of a re-
4 newal of a contract under section 503, shall consider the re-
5 sults of the onsite evaluations conducted under subsection (b).

6 **“SEC. 506. OTHER CONTRACT REQUIREMENTS.**

7 “(a) APPLICATION OF OTHER FEDERAL LAWS.—Con-
8 tracts with urban Indian organizations entered into pursuant
9 to this title shall be in accordance with all Federal contract-
10 ing laws and regulations except that, in the discretion of the
11 Secretary, such contracts may be negotiated without adver-
12 tising and need not conform to the provisions of the Act of
13 August 24, 1935 (40 U.S.C. 270a et seq.).

14 “(b) METHOD OF PAYMENT.—Payments under any
15 contracts pursuant to this title may be made in advance or by
16 way of reimbursement and in such installments and on such
17 conditions as the Secretary deems necessary to carry out the
18 purposes of this title.

19 “(c) REVISION AND AMENDMENT OF CONTRACTS.—
20 Notwithstanding any provision of law to the contrary, the
21 Secretary may, at the request or consent of an urban Indian
22 organization, revise or amend any contract entered into by
23 the Secretary with such organization under this title as nec-
24 essary to carry out the purposes of this title.

1 “(d) USE OF EXISTING FEDERAL FACILITIES.—In
2 connection with any contract entered into pursuant to this
3 title, the Secretary may permit an urban Indian organization
4 to utilize, in carrying out such contract, existing facilities
5 owned by the Federal Government within the Secretary's ju-
6 risdiction under such terms and conditions as may be agreed
7 upon for the use and maintenance of such facilities.

8 “(e) FAIR AND UNIFORM PROVISION OF SERVICES AND
9 ASSISTANCE.—Contracts with urban Indian organizations
10 and regulations adopted pursuant to this title shall include
11 provisions to assure the fair and uniform provision to urban
12 Indians of services and assistance under such contracts by
13 such organizations.

14 “(f) CERTAIN URBAN INDIANS ELIGIBLE.—Urban In-
15 dians, as defined in section 4(f) of this Act, shall be eligible
16 for health care or referral services provided pursuant to this
17 title.

18 “SEC. 507. REPORTS AND RECORDS.

19 “(a) QUARTERLY REPORT.—For each fiscal year
20 during which an urban Indian organization receives or ex-
21 pends funds pursuant to a contract entered into pursuant to
22 this title, such organization shall submit to the Secretary a
23 quarterly report including—

1 “(1) in the case of a contract under section 503,
2 information gathered pursuant to clauses (10) and (11)
3 of subsection (a) of such section;

4 “(2) information on activities conducted by the or-
5 ganization pursuant to the contract;

6 “(3) an accounting of the amounts and purposes
7 for which Federal funds were expended; and

8 “(4) such other information as the Secretary may
9 request.

10 “(b) AUDIT.—The reports and records of the urban
11 Indian organization with respect to a contract under this title
12 shall be subject to audit by the Secretary and the Comptrol-
13 ler General of the United States.

14 “(c) COST OF PRIVATE AUDITS.—The Secretary shall
15 allow as a cost of any contract entered into under section 503
16 the cost of an annual private audit conducted by a certified
17 public accountant.

18 **“SEC. 508. LIMITATION ON CONTRACT AUTHORITY.**

19 “The authority of the Secretary to enter into contracts
20 under this title shall be to the extent, and in an amount,
21 provided for in appropriation Acts.”.

22 **SEC. 402. URBAN INDIAN ORGANIZATION.**

23 Subsection (h) of section 4 (25 U.S.C. 1603(h)) is
24 amended by inserting “urban” after “governed by an”.

1 **TITLE V—ORGANIZATIONAL**
2 **IMPROVEMENTS**

3 SEC. 501. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE
4 AS AN AGENCY OF THE PUBLIC HEALTH
5 SERVICE.

6 (a) AMENDMENT.—Title VI (25 U.S.C. 1661) is
7 amended to read as follows:

8 **“TITLE VI—ORGANIZATIONAL**
9 **IMPROVEMENTS**

10 “SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE
11 AS AN AGENCY OF THE PUBLIC HEALTH
12 SERVICE.

13 “(a) ESTABLISHMENT; ADMINISTRATION.—In order to
14 more effectively and efficiently carry out the responsibilities,
15 authorities, and functions of the United States to provide
16 health care services to Indians and Indian tribes, as are or
17 may be hereafter provided by Federal statute or treaties,
18 there is established within the Public Health Service of the
19 Department of Health and Human Services the Indian
20 Health Service. The Indian Health Service shall be adminis-
21 tered by a Director, who shall be appointed by the Secretary.
22 The Director of the Indian Health Service shall report to the
23 Secretary through the Assistant Secretary for Health of the
24 Department of Health and Human Services.

1 "(b) AGENCY STATUS.—The Indian Health Service
2 shall be an agency within the Public Health Service of the
3 Department of Health and Human Services, and shall not be
4 an office, component, or unit of any other agency of
5 the Department.

6 "(c) DUTIES.—The Secretary shall carry out through
7 the Director of the Indian Health Service—

8 "(1) all functions which were, on the day before
9 the date of enactment of the Indian Health Care
10 Amendments of 1988, carried out by or under the di-
11 rection of the individual serving as Director of the
12 Indian Health Service on such day;

13 "(2) all functions of the Secretary relating to the
14 maintenance and operation of hospital and health facili-
15 ties for Indians and the planning for, and provision and
16 utilization of, health services for Indians; and

17 "(3) all health programs under which health care
18 is provided to Indians based upon their status as Indi-
19 ans which are administered by the Secretary, including
20 (but not limited to) programs under—

21 "(A) this Act;

22 "(B) the Act of November 2, 1921 (25
23 U.S.C. 13);

24 "(C) the Act of August 5, 1954 (42 U.S.C.
25 2001 et seq.);

1 “(D) the Act of August 16, 1957 (25 U.S.C.
2 2005 et seq.); and

3 “(E) the Indian Self-Determination Act (25
4 U.S.C. 450f et seq.).

5 “(d) AUTHORITY OF DIRECTOR.—

6 “(1) The Secretary, acting through the Director of
7 the Indian Health Service, shall have the authority—

8 “(A) except to the extent provided in para-
9 graph (2), to appoint and compensate employees
10 for the Service in accordance with title 5, United
11 States Code;

12 “(B) to enter into contracts for the procure-
13 ment of goods and services to carry out the func-
14 tions of the Service; and

15 “(C) to manage, expend, and obligate all
16 funds appropriate for the Service.

17 “(2) Notwithstanding any other law, the provi-
18 sions of section 12 of the Act of June 18, 1934 (48
19 Stat. 986; 25 U.S.C. 472), shall apply to all personnel
20 actions taken with respect to new positions created
21 within the Service as a result of its establishment
22 under subsection (a).

23 “SEC. 602. AUTOMATED MANAGEMENT INFORMATION SYSTEM.

24 “(a) ESTABLISHMENT.—

1 “(1) The Secretary shall establish an automated
2 management information system for the Service.

3 “(2) The information system established under
4 paragraph (1) shall include—

5 “(A) a financial management system,

6 “(B) a patient care information system for
7 each area served by the Service,

8 “(C) a privacy component that protects the
9 privacy of patient information held by, or on
10 behalf of, the Service, and

11 “(D) a services-based cost accounting compo-
12 nent that provides estimates of the costs associat-
13 ed with the provision of specific medical treat-
14 ments or services in each area office of the
15 Service.

16 “(3) By no later than September 30, 1989, the
17 Secretary shall submit a report to Congress setting
18 forth—

19 “(A) the activities which have been under-
20 taken to establish an automated management in-
21 formation system,

22 “(B) the activities, if any, which remain to
23 be undertaken to complete the implementation of
24 an automated management information system,
25 and

1 “(C) the amount of funds which will be
2 needed to complete the implementation of a man-
3 agement information system in the succeeding
4 fiscal years.

5 “(b) TRIBAL SYSTEMS.—

6 “(1) The Secretary shall provide each Indian tribe
7 and tribal organization that provides health services
8 under a contract entered into with the Service under
9 the Indian Self-Determination Act automated manage-
10 ment information systems which—

11 “(A) meet the management information
12 needs of such Indian tribe or tribal organization
13 with respect to the treatment by the Indian tribe
14 or tribal organization of patients of the Service,
15 and

16 “(B) meet the management information needs
17 of the Service.

18 “(2) The Secretary shall reimburse each Indian
19 tribe or tribal organization for the part of the cost of
20 the operation of a system provided under paragraph (1)
21 which is attributable to the treatment by such Indian
22 tribe or tribal organization of patients of the Service.

23 “(3) The Secretary shall provide systems under
24 paragraph (1) to Indian tribes and tribal organizations

1 providing health services in California by no later than
2 September 30, 1989.

3 “(c) PATIENT RECORDS.—Notwithstanding any other
4 provision of law, each patient shall have reasonable access to
5 the medical or health records of such patient which are held
6 by, or on behalf of, the Service.”.

7 (b) TRANSFERS.—All personnel, records, equipment, fa-
8 cilities, and interests in property that are administered by the
9 Indian Health Service on the day before the date on which
10 the amendments made by this section take effect shall be
11 transferred to the Indian Health Service established by the
12 amendment made by subsection (a) of this section. All trans-
13 fers must be accomplished within 9 months of the date of
14 enactment of this section. The Secretary is authorized to
15 waive the Indian preference laws on a case-by-case basis for
16 temporary transfers involved in implementing this section
17 during such 9-month period.

18 (c) EFFECTIVE DATE.—

19 (1) Except as provided in paragraph (2), section
20 601 of the Indian Health Care Improvement Act
21 added by subsection (a) of this section shall take effect
22 9 months from the date of the enactment of this
23 section.

24 (2) Notwithstanding subsections (b) and (c)(1), any
25 action which carries out such section 601 that is taken

1 by the Secretary before the effective date of such sec-
2 tion 601 shall be effective beginning on the date such
3 action was taken.

4 (d) POSITION AT EXECUTIVE LEVEL V.—Section 5316
5 of title 5 of the United States Code is amended by adding at
6 the end thereof the following:

7 “Director, Indian Health Service, Department of
8 Health and Human Services.”.

9 **TITLE VI—MISCELLANEOUS
10 PROVISIONS**

11 SEC. 601. LEASING AND OTHER CONTRACTS.

12 Section 704 (25 U.S.C. 1674) is amended—

13 (1) by striking out “Notwithstanding”, and insert-
14 ing in lieu thereof “(a) Notwithstanding”, and

15 (2) by adding at the end thereof the following new
16 subsection:

17 “(b) The Secretary may enter into leases, contracts, and
18 other legal agreements with Indian tribes or tribal organiza-
19 tions which hold—

20 “(1) title to;

21 “(2) a leasehold interest in; or

22 “(3) a beneficial interest in (where title is held by
23 the United States in trust for the benefit of a tribe);
24 facilities used for the administration and delivery of health
25 services by the Service or by programs operated by Indian

1 tribes or tribal organizations to compensate such Indian
2 tribes or tribal organizations for costs associated with the use
3 of such facilities for such purposes. Such costs include rent,
4 depreciation based on the useful life of the building, principal
5 and interest paid or accrued, operation and maintenance ex-
6 penses, and other expenses determined by regulation to be
7 allowable.”.

8 **SEC. 602. ARIZONA AS A CONTRACT HEALTH SERVICE DELIV-
9 ERY AREA.**

10 (a) **IN GENERAL.**—Subsection (a) of section 708 (25
11 U.S.C. 1678 (a)) is amended—

12 (1) by striking out “1984” and inserting in lieu
13 thereof “1991”, and

14 (2) by striking out “Indians in such State” and in-
15 serting in lieu thereof “members of federally recognized
16 Indian tribes of Arizona”.

17 (b) **TECHNICAL AMENDMENT.**—Section 708 (25 U.S.C.
18 1678(c)) is amended by striking out subsection (c).

19 **SEC. 603. ELIGIBILITY OF CALIFORNIA INDIANS.**

20 Section 709 (25 U.S.C. 1679) is amended to read as
21 follows:

22 **“SEC. 709. ELIGIBILITY OF CALIFORNIA INDIANS.**

23 “(a) **REPORT.**—

24 (1) In order to provide the Congress with suffi-
25 cient data to determine which Indians in the State of

1 California should be eligible for health services provided
2 by the Service, the Secretary shall, by no later than
3 the date that is 3 years after the date of enactment of
4 this section, prepare and submit to the Congress a
5 report which sets forth—

6 “(A) a determination by the Secretary of the
7 number of Indians described in subsection (b)(2),
8 and the number of Indians described in subsection
9 (b)(3), who are not members of an Indian tribe
10 recognized by the Federal Government,

11 “(B) the geographic location of such Indians,
12 “(C) the Indian tribes of which such Indians
13 are members,

14 “(D) an assessment of the current health
15 status, and health care needs, of such Indians,
16 and

17 “(E) an assessment of the actual availability
18 and accessibility of alternative resources for the
19 health care of such Indians that such Indians
20 would have to rely on if the Service did not provide
21 for the health care of such Indians.

22 “(2) The report required under paragraph (1) shall
23 be prepared by the Secretary—

24 “(A) in consultation with the Secretary of
25 the Interior, and

1 “(B) with the assistance of the tribal health
2 programs providing services to the Indians de-
3 scribed in paragraph (2) or (3) of subsection (b)
4 who are not members of any Indian tribe recog-
5 nized by the Federal Government.

6 “(b) **ELIGIBLE CALIFORNIA INDIANS.**—Until such time
7 as the Congress by any subsequent amendment to this Act
8 may otherwise provide, the following California Indians shall
9 be eligible for health services provided by the Service:

10 “(1) Any member of a federally recognized Indian
11 tribe.

12 “(2) Any descendant of an Indian who was resid-
13 ing in California on June 1, 1852, but only if
14 such descendant—

15 “(A) is living in California,

16 “(B) is a member of the Indian community
17 served by a local program of the Service, and

18 “(C) is regarded as an Indian by the commu-
19 nity in which such descendant lives.

20 “(3) Any Indian who holds trust interests in
21 public domain, national forest, or Indian reserva-
22 tion allotments in California.

23 “(4) Any Indian in California who is listed on the
24 plans for distribution of the assets of California ran-
25 cherias and reservations under the Act of August 18,

1 1958 (72 Stat. 619), and any descendant of such an
2 Indian.

3 “(c) RULE OF CONSTRUCTION.—Nothing in this section
4 may be construed as expanding the eligibility of California
5 Indians for health services provided by the Service beyond
6 the scope of eligibility for such health services that applied on
7 May 1, 1986.”.

8 SEC. 604. CALIFORNIA AS A CONTRACT HEALTH SERVICE
9 DELIVERY AREA.

10 Section 710 (25 U.S.C. 1680) is amended to read as
11 follows:

12 “SEC. 710. CALIFORNIA AS A CONTRACT HEALTH SERVICE
13 DELIVERY AREA.

14 “The State of California, excluding the counties of Ala-
15 meda, Contra Costa, Los Angeles, Marin, Orange, Sacra-
16 mento, San Francisco, San Mateo, Santa Clara, Kern,
17 Merced, Monterey, Napa, San Benito, San Joaquin, San Luis
18 Obispo, Santa Cruz, Solano, Stanislaus, and Ventura, shall
19 be designated as a contract health service delivery area by
20 the Service for the purpose of providing contract health serv-
21 ices to Indians in such State.”.

22 SEC. 605. CONTRACT HEALTH FACILITIES.

23 Title VII is amended by adding at the end thereof the
24 following new section:

1 **“SEC. 711. CONTRACT HEALTH FACILITIES.**

2 “The Service shall provide funds for health care pro-
3 grams and facilities operated by the tribes and tribal organi-
4 zations under contracts with the Service entered into under
5 the Indian Self-Determination Act—

6 “(1) for the maintenance and repair of clinics
7 owned or leased by such tribes or tribal organizations,

8 “(2) for employee training,

9 “(3) for cost-of-living increases for employees, and

10 “(4) for any other expenses relating to the provi-
11 sion of health services,

12 on the same basis as such funds are provided to programs and
13 facilities operated directly by the Service.”.

14 **SEC. 606. NATIONAL HEALTH SERVICE CORPS.**

15 Title VII is amended by adding at the end thereof the
16 following new section:

17 **“SEC. 712. NATIONAL HEALTH SERVICE CORPS.**

18 “The Secretary of Health and Human Services shall
19 not—

20 “(1) remove a member of the National Health
21 Service Corps from a health facility operated by the
22 Indian Health Service or by a tribe or tribal organiza-
23 tion under contract with the Indian Health Service
24 under the Indian Self-Determination Act, or

25 “(2) withdraw funding used to support such
26 member,

1 unless the Secretary, acting through the Service, has ensured
2 that the Indians receiving services from such member will
3 experience no reduction in services.”.

4 **SEC. 607. HEALTH SERVICES FOR INELIGIBLE PERSONS.**

5 Title VII is amended by adding at the end thereof the
6 following new section:

7 **“SEC. 713. HEALTH SERVICES FOR INELIGIBLE PERSONS.**

8 **“(a) IN GENERAL.—**

9 **“(1) Any individual who—**

10 **“(A) has not attained 19 years of age,**

11 **“(B) is the natural or adopted child, step-**
12 **child, foster child, legal ward, or orphan of an eli-**
13 **gible Indian, and**

14 **“(C) is not otherwise eligible for the health**
15 **services provided by the Service,**

16 shall be eligible for all health services provided by the
17 Service, on the same basis and subject to the same
18 rules that apply to eligible Indians until such individual
19 attains 19 years of age. The existing and potential
20 health needs of all such individuals shall be taken into
21 consideration by the Service in determining the need
22 for, or the allocation of, the health resources of the
23 Service. If such an individual has been determined to
24 be legally incompetent prior to attaining 19 years of
25 age, such individual shall remain eligible for such serv-

1 ices until one year after the date such disability has
2 been removed.

3 “(2) Any spouse of an eligible Indian who is not
4 an Indian, or who is of Indian descent but not other-
5 wise eligible for the health services provided by the
6 Service, shall be eligible for such health services if all
7 such spouses are made eligible, as a class, by an ap-
8 propriate resolution of the governing body of the
9 Indian tribe of the eligible Indian. The health needs of
10 persons made eligible under this paragraph shall not be
11 taken into consideration by the Service in determining
12 the need for, or allocation of, its health resources.

13 “(b) PROVISION OF HEALTH SERVICES.—

14 “(1)(A) The Secretary is authorized to provide
15 health services under this subsection through health fa-
16 cilities operated directly by the Service to individuals
17 who reside within the service area of a service unit and
18 who are not eligible for such health services under any
19 other subsection of this section or under any other pro-
20 vision of law if—

21 “(i) the Indian tribe (or, in the case of a
22 multi-tribal service area, all the Indian tribes)
23 served by such service unit requests such provi-
24 sion of health services to such individuals, and

1 “(ii) the Secretary and the Indian tribe or
2 tribes have jointly determined that—

3 “(I) the provision of such health serv-
4 ices will not result in a denial or diminution
5 of health services to eligible Indians, and

6 “(II) there is no reasonable alternative
7 health facility or services, within or without
8 the service area of such service unit, avail-
9 able to meet the health needs of such
10 individuals.

11 “(B) In the case of health facilities operated under
12 a contract entered into under the Indian Self-Determi-
13 nation Act, the governing body of the Indian tribe or
14 tribal organization providing health services under such
15 contract is authorized to determine whether health
16 services should be provided under such contract to in-
17 dividuals who are not eligible for such health services
18 under any other subsection of this section or under any
19 other provision of law. In making such determinations,
20 the governing body of the Indian tribe or tribal organi-
21 zation shall take into account the considerations de-
22 scribed in subparagraph (A)(ii).

23 “(2)(A) Persons receiving health services provided
24 by the Service by reason of this subsection shall be
25 liable for payment of such health services under a

1 schedule of charges prescribed by the Secretary which,
2 in the judgment of the Secretary, results in reimbursement
3 in an amount not less than the actual cost of providing
4 the health services. Notwithstanding section
5 1880(c) of the Social Security Act, section 402(c) of
6 this Act, or any other provision of law, amounts collected
7 under this subsection, including Medicare or
8 Medicaid reimbursements under titles XVIII and XIX
9 of the Social Security Act, shall be credited to the account
10 of the facility providing the service and shall be used
11 solely for the provision of health services within that facility.
12 Amounts collected under this subsection shall be available
13 for expenditure within such facility for not to exceed one fiscal year after the fiscal year in
14 which collected.

15 “(B) Health services may be provided by the Secretary through the Service under this subsection to an indigent person who would not be eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent person.

1 “(3)(A) In the case of a service area which serves
2 only one Indian tribe, the authority of the Secretary to
3 provide health services under paragraph (1)(A) shall
4 terminate at the end of the fiscal year succeeding the
5 fiscal year in which the governing body of the Indian
6 tribe revokes its concurrence to the provision of such
7 health services.

8 “(B) In the case of a multi-tribal service area, the
9 authority of the Secretary to provide health services
10 under paragraph (1)(A) shall terminate at the end of
11 the fiscal year succeeding the fiscal year in which at
12 least 51 percent of the number of Indian tribes in the
13 service area revoke their concurrence to the provision
14 of such health services.

15 “(c) CERTAIN OTHER HEALTH SERVICES.—The Serv-
16 ice may provide health services under this subsection to indi-
17 viduals who are not eligible for health services provided by
18 the Service under any other provision of law in order to—

19 “(1) achieve stability in a medical emergency,

20 “(2) prevent the spread of a communicable disease
21 or otherwise deal with a public health hazard,

22 “(3) provide care to non-Indian women pregnant
23 with an eligible Indian's child for the duration of the
24 pregnancy through post partum, or

1 “(4) provide care to immediate family members of
2 an eligible person if such care is directly related to the
3 treatment of the eligible person.

4 “(d) HOSPITAL PRIVILEGES.—Hospital privileges in
5 health facilities operated and maintained by the Service or
6 operated under a contract entered into under the Indian Self-
7 Determination Act may be extended to non-Service health
8 care practitioners who provide services to persons described
9 in subsection (a) or (b). Such non-Service health care practi-
10 tioners may be regarded as employees of the Federal Govern-
11 ment for purposes of section 1346(b) and chapter 171 of title
12 28, United States Code (relating to Federal tort claims), only
13 with respect to acts or omissions which occur in the course of
14 providing services to eligible persons as a part of the condi-
15 tions under which such hospital privileges are extended.

16 “(e) **DEFINITION.**—For purposes of this section, the
17 term ‘eligible Indian’ means any Indian who is eligible for
18 health services provided by the Service without regard to the
19 provisions of this section.”.

20 SEC. 608. INFANT AND MATERNAL MORTALITY; FETAL ALCO-
21 HOL SYNDROME.

22 Title VII is amended by adding at the end thereof the
23 following new section:

1 "SEC. 714. INFANT AND MATERNAL MORTALITY; FETAL ALCO-

2 **HOL SYNDROME.**

3 "“(a) PLAN.—By no later than January 1, 1989, the
4 Secretary shall develop and begin implementation of a plan
5 to achieve the following objectives by January 1, 1993:

6 ““(1) reduction of the rate of Indian infant mortali-
7 ty in each area office of the Service to the lower of—

8 ““(A) 12 deaths per 1,000 live births, or

9 ““(B) the rate of infant mortality applicable to
10 the United States population as a whole;

11 ““(2) reduction of the rate of maternal mortality
12 among Indians served by or through the Service to the
13 lower of—

14 ““(A) 5 deaths per 100,000 live births, or

15 ““(B) the rate of maternal mortality applicable
16 to the United States population as a whole; and

17 ““(3) reduction of the rate of fetal alcohol syn-
18 drome among Indians served by or through the Service
19 to one per one thousand live births.

20 ““(b) MATTERS TO BE INCLUDED IN BUDGET SUBMIS-
21 SIONS.—The President shall include with the budget submit-
22 ted under section 1105 of title 31, United States Code, for
23 each fiscal year a separate statement which specifies the total
24 amount obligated or expended in the most recently completed
25 fiscal year to achieve each of the objectives described in sub-
26 section (a).”.

1 SEC. 609. CONTRACT HEALTH SERVICES FOR THE TRENTON
2 SERVICE AREA.

3 Title VII is amended by adding at the end thereof the
4 following new section:

5 "SEC. 715. CONTRACT HEALTH SERVICES FOR THE TRENTON
6 SERVICE AREA.

7 "(a) GENERAL AUTHORITY.—The Secretary, acting
8 through the Service, is directed to provide contract health
9 services to members of the Turtle Mountain Band of Chippewa
10 Indians that reside in the Trenton Service Area of
11 Divide, McKenzie, and Williams counties in the State of
12 North Dakota and the adjoining counties of Richland, Roosevelt,
13 and Sheridan in the State of Montana.

14 "(b) RULE OF CONSTRUCTION.—Nothing in this section
15 may be construed as expanding the eligibility of members
16 of the Turtle Mountain Band of Chippewa Indians for health
17 services provided by the Service beyond the scope of eligibility
18 for such health services that applied on May 1, 1986.".

19 SEC. 610. INDIAN HEALTH SERVICE AND VETERANS' ADMINIS-
20 TRATION HEALTH FACILITIES AND SERVICES
21 SHARING.

22 Title VII is amended by adding at the end thereof the
23 following new section:

1 "SEC. 716. INDIAN HEALTH SERVICE AND VETERANS' ADMIN-
2 ISTRATION HEALTH FACILITIES AND SERVICES
3 SHARING.

4 "“(a) FEASIBILITY.—The Secretary shall examine the
5 feasibility of entering into an arrangement for the sharing of
6 medical facilities and services between the Indian Health
7 Service and the Veterans' Administration and shall, in ac-
8 cordance with subsection (b), prepare a report on the feasibil-
9 ity of such an arrangement and submit such report to the
10 Congress by no later than September 30, 1990.

11 "“(b) LIMITATION ON AUTHORITY.—The Secretary
12 shall not take any action under this section or under subchap-
13 ter IV of chapter 81 of title 38, United States Code, which
14 would impair—

15 "“(1) the priority access of any Indian to health
16 care services provided through the Indian Health
17 Service;

18 "“(2) the quality of health care services provided to
19 any Indian through the Indian Health Service;

20 "“(3) the priority access of any veteran to health
21 care services provided by the Veterans' Administration;

22 "“(4) the quality of health care services provided to
23 any veteran by the Veterans' Administration;

24 "“(5) the eligibility of any Indian to receive health
25 services through the Indian Health Service; or

1 “(6) the eligibility of any Indian who is a
2 veteran to receive health services through the Veterans’ Administration.

4 “**(c) MODEL PROGRAM.**—

5 “(1) Within 30 days after the date of enactment
6 of this section, the Director of the Indian Health Service and the Administrator of Veterans’ Affairs are authorized and directed to implement an agreement under
7 8 9 which—

10 “(A) individuals in the vicinity of Roosevelt,
11 Utah, who are eligible for health care from the
12 Veterans’ Administration could obtain health care
13 services at the facilities of the Indian Health
14 Service located at Fort Duchesne, Utah; and

15 “(B) individuals eligible for health care from
16 the Indian Health Service at Fort Duchesne,
17 Utah, could obtain health care services at the
18 Veterans’ Administration medical center located
19 in Salt Lake City, Utah.

20 “(2) Not later than 2 years after the date of enactment of this section, the Secretary and the Administrator of Veterans’ Affairs shall jointly submit a report
21 22 23 24 to the Congress on the health care services provided as a result of paragraph (1).

1 "(d) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion may be construed as creating any right of a veteran to
3 obtain health services from the Indian Health Service except
4 as provided in an agreement under subsection (c).".

5 **SEC. 611. REALLOCATION OF BASE RESOURCES.**

6 (a) LIMITATION.—Notwithstanding any other provision
7 of law, any allocation of Indian Health Service funds for a
8 fiscal year that reduces by 5 percent or more from the previ-
9 ous fiscal year the funding for any recurring program,
10 project, or activity of a Service unit (as such term is defined
11 under section 4(j) of the Indian Health Care Improvement
12 Act) may be implemented only after the Secretary of Health
13 and Human Services has submitted to the Congress a report
14 on the proposed change in allocation of funding, including the
15 reasons for the change and its likely effects.

16 (b) APPLICABILITY OF LIMITATION.—Subsection (a)
17 shall not apply if the total amount appropriated to the Indian
18 Health Service for a fiscal year is less than the amount ap-
19 propriated to the Indian Health Service for previous fiscal
20 year.

21 **SEC. 612. PROVISION OF SERVICES IN MONTANA.**

22 (a) IN GENERAL.—The Secretary of Health and
23 Human Services, through the Indian Health Service, shall
24 provide services and benefits for Indians in Montana in a
25 manner consistent with the current policy as allowed by the

1 stay during the pending litigation in McNabb against Heckler
2 (628 F. Supp. 544; D. Mont. 1986); affirmed, McNabb
3 against Bowen (829 F.2d 787; 9th Cir. 1987).

4 (b) **DISCLAIMER.**—The provisions of this section shall
5 not be considered to be an expression of the sense of the
6 Congress on the merits of the district and appellate court
7 decisions referred to in subsection (a).

8 **SEC. 613. TOHONO O'ODHAM DEMONSTRATION PROJECT.**

9 (a) **HEALTH CARE DELIVERY SYSTEM.**—The Secre-
10 tary, acting through the Service, shall make grants to the
11 Tohono O'odham Tribe of Arizona to establish a demonstra-
12 tion project under which such tribe may develop and test a
13 phased approach to assumption by such tribe of the health
14 care delivery system of the Service for members of such tribe
15 living on or near the reservations of such tribe through the
16 use of Service, tribal, and private sector resources.

17 (b) **CONTRACTS.**—During the period in which the dem-
18 onstration project established under subsection (a) is being
19 conducted, the Secretary shall award health care contracts,
20 including community, behavioral and preventive health care
21 contracts, to the tribe in the form of a single grant to which
22 the regulations prescribed under part A of title XIX of the
23 Public Health Service Act (as modified as necessary by
24 agreement entered into between the Secretary and such tribe

1 to achieve the purposes of the demonstration project under
2 subsection (a)) shall apply.

3 (c) WAIVER OF CERTAIN FEDERAL PROCUREMENT
4 PROVISIONS.—The Secretary may waive such provisions of
5 Federal procurement law as are necessary to enable the
6 Tohono O'odham tribe to develop and test administrative sys-
7 tems under the demonstration project, but only if such waiver
8 does not diminish or endanger the delivery of health care
9 services to Indians.

10 (d) TERMINATION.—The demonstration project estab-
11 lished under subsection (a) shall terminate 4 years after the
12 date it is established. Within a reasonable time thereafter, the
13 Secretary shall submit a report to the Congress evaluating
14 the performance of the tribe under such project.

15 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
16 authorized to be appropriated \$275,000 for each of the fiscal
17 years 1989 and 1990 and \$75,000 for fiscal year 1991 for
18 the purposes of this section.

19 SEC. 614. PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT
20 FOR SAN JUAN PUEBLO, NEW MEXICO.

21 Title VII is amended by adding at the end thereof the
22 following new section:

1 "SEC. 717. PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT
2 FOR SAN JUAN PUEBLO, NEW MEXICO.

3 "(a) GRANTS.—The Secretary, through the Service,
4 shall make grants to the Eight Northern Indian Pueblos
5 Council, San Juan Pueblo, New Mexico, for the purpose of
6 providing substance abuse treatment services to Indians in
7 need of such services.

8 "(b) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to carry out this section
10 \$250,000 for each of the fiscal years 1990 and 1991.".

11 SEC. 615. STUDY WITH RESPECT TO NUCLEAR RESOURCE
12 DEVELOPMENT HEALTH HAZARDS.

13 (a) STUDY.—The Secretary of Health and Human Serv-
14 ices (acting through the Director of the Indian Health Serv-
15 ice), the Secretary of the Interior (acting through the Bureau
16 of Indian Affairs), and the Secretary of Energy shall jointly
17 conduct a study for the purpose of determining—

18 (1) the number of active nuclear resource develop-
19 ment sites on Indian lands in the United States:

20 (2) the Federal agencies that carry out Federal
21 responsibilities with respect to each such site:

22 (3) the health hazards that exist as a result of
23 such sites:

24 (4) the remedial actions which have been under-
25 taken with respect to such health hazards;

8 (b) REPORT.—Not later than 2 years after the date of
9 the enactment of this Act, a report shall be submitted to the
10 Congress describing the findings and conclusions made as a
11 result of carrying out the study required in subsection (a).

12 SEC. 616. RESTRICTION ON THE USE OF DEPO-PROVERA.

13 (a) CONTRACEPTIVE PURPOSES.—The Indian Health
14 Service may not, directly or through any contract with an
15 Indian tribe or tribal or Indian organization, prescribe or oth-
16 erwise use Depo-Provera for contraceptive purposes in pa-
17 tients for whom another form of contraception could be used.

18 (b) PROHIBITION.—The Indian Health Service may not
19 directly or through any contract with an Indian tribe or a
20 tribal or Indian organization, prescribe or otherwise use
21 Depo-Provera to stop menses in mentally retarded or devel-
22 opmentally disabled women unless and until the Food and
23 Drug Administration specifically authorizes such use.

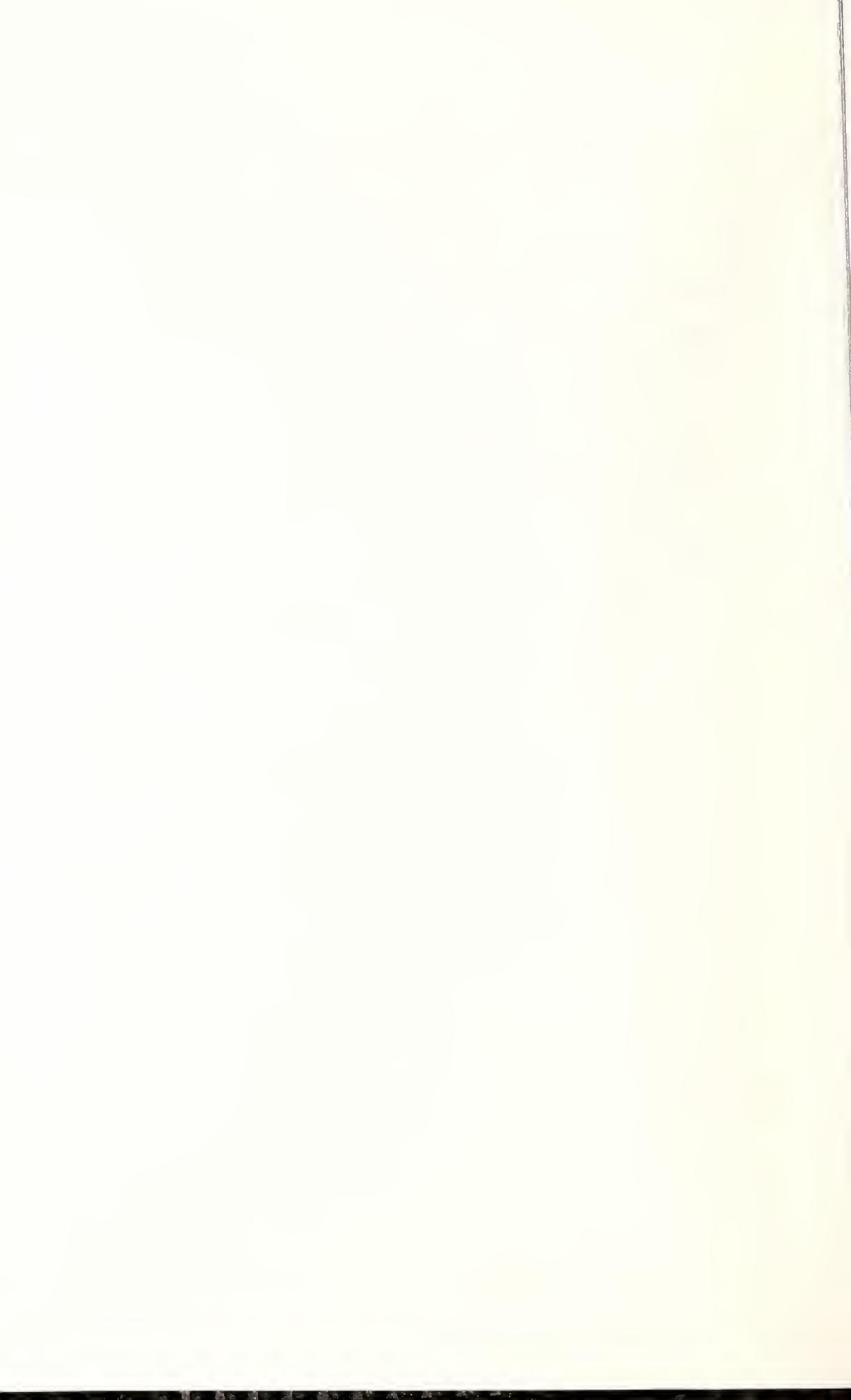
1 SEC. 617. LIMITATION ON USE OF FUNDS APPROPRIATED TO
2 THE INDIAN HEALTH SERVICE.

3 Any limitation on the use of funds contained in an Act
4 providing appropriations for the Department of Health and
5 Human Services for a period with respect to the performance
6 of abortions shall apply for that period with respect to the
7 performance of abortions using funds contained in an Act pro-
8 viding appropriations for the Indian Health Service.

Passed the House of Representatives September 13,
1988.

Attest: DONNALD K. ANDERSON,

Clerk.



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100TH CONGRESS
2d SESSION **H.R. 5261**

AN ACT

To reauthorize and amend the Indian Health Care
Improvement Act, and for other purposes.

SEPTEMBER 15 (legislative day, SEPTEMBER 7, 1988)

Received; read twice and placed on the calendar

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